

**Opinion 26**  
**April 1950**  
**18 Baylor L. Rev. 207 (1966)**

**WITNESSES - JURORS - LETTERS**

A letter by the successful attorney in a jury case to the jurors, complimenting them, assuring them that none of the matters they considered constituted misconduct, and advising them to refuse to talk to defendant's representative should he call upon them, is improper.

Canons 20, 36. A.B.A. Canon 39.

**QUESTION**

Is it a violation of the Texas Canons of Ethics for the successful attorney in a jury case to write a letter to each of the members of the jury in which he complimented the jury, advised them that the "Insurance carrier" for the defendant would probably call upon them in an effort to prove by them that certain matters, enumerating them, were considered by the jury which would constitute misconduct, assured them that nothing of the sort occurred, and advised the jurors to refuse to talk to such representative if he did call upon them?

**OPINION**

The committee is of the opinion that the action of the attorney in mailing such a letter to the jurors was a violation of one, or more, of the Canons of both the American Bar Association and the State Bar of Texas. Two members were of the opinion that this action violated American Bar Association Canon 22 and Texas Bar Canon 19. Five members of the committee were of the opinion such action did not violate American Bar Association Canon 22 and Texas Bar Canon 19, but did violate American Bar Association Canon 39 and Texas Bar Canon 36. One member of the committee, in addition to expressing the opinion that this letter violated American Bar Association Canon 39 and Texas Bar Canon 36, cited the case of *Goldstein Hat Mft. Co. v. Cowen*, 136 S.W. (2) 867, at page 875.

While, as indicated above, there was some difference of opinion as to the particular canon violated, all of the members were definitely of the opinion that the writing of such a letter to the jury was improper conduct, fawned upon and attempted to curry favor with the jury, and was intended to deny to his adversary a fair opportunity to ascertain the true facts as to what took place in the jury room. Also, that it constituted an attempt to induce the jurors to suppress or deviate from the truth, or to affect their free and untrammelled conduct. (7-0)