

## **Jury Admonitions In Preliminary Instructions (Revised May 2009 and Feb. 2016)<sup>1</sup>**

*(Note: Statutory law requires that certain admonitions be given to the jury as part of the court's preliminary instructions [see CPL 270.40]. This charge sets forth those admonitions and provides appropriate explanations.)*

Our law requires jurors to follow certain instructions in order to help assure a just and fair trial. I will now give you those instructions.

1. Do not converse, either among yourselves or with anyone else, about anything related to the case. You may tell the people with whom you live and your employer that you are a juror and give them information about when you will be required to be in court. But, you may not talk with them or anyone else about anything related to the case.
2. Do not, at any time during the trial, request, accept, agree to accept, or discuss with any person the receipt or acceptance of any payment or benefit in return for supplying any information concerning the trial.
3. You must promptly report directly to me any incident within your knowledge involving an attempt by any person to improperly influence you or any member of the jury.
4. Do not visit or view the premises or place where the charged crime was allegedly committed, or any other premises or place involved in the case. And you must not use internet maps or Google Earth or any other program or device to search for and view any location discussed in the testimony.
5. Do not read, view, or listen to any accounts or discussions of the case reported by newspapers, television, radio, the internet, or any other news media.

6. Do not attempt to research any fact, issue, or law related to this case, whether by discussion with others, by research in a library or on the internet, or by any other means or source. In this age of instant electronic communication and research, I want to emphasize that, in addition to not conversing face to face with anyone about the case, you must not communicate with anyone about the case by any other means, including by telephone, text messages, email, internet chat or chat rooms, blogs, or social media sites, such as Facebook or Twitter. You must not provide any information about the case to anyone by any means whatsoever, and that includes the posting of information about the case, or what you are doing in the case, on any device or internet site, including blogs, chat rooms, social websites, or any other means. You must also not Google or otherwise search for any information about the case, or the law which applies to the case, or the people involved in the case, including the defendant, the witnesses, the lawyers, or the judge.

Now, ladies and gentlemen, I want you to understand why these rules are so important.

Our law does not permit jurors to converse with anyone else about the case, or to permit anyone to talk to them about the case, because only jurors are authorized to render a verdict. Only you have been found to be fair and only you have promised to be fair – no one else has been so qualified.

Our law also does not permit jurors to converse among themselves about the case until the court tells them to begin deliberations.

Our law recognizes that it is human nature for each of you to be forming tentative opinions about the witnesses and testimony as the trial progresses,<sup>2</sup> and that there is a strong temptation to discuss those opinions during the course of the trial with the other jurors or someone else. But, the law does not permit you to discuss the case during the course of the trial. The reason is that the opinions you may be forming during the course of the trial are subject to change from time to time as the evidence is presented,

and, in fairness, you need to hear all the evidence, the summations of the lawyers, and my final instructions on the law before you share your thoughts and opinions with the other jurors and reach a final decision. So, the sharing of thoughts and opinions must take place only at the end of the case, when I say you may begin your deliberations. If, prior to those deliberations, you engage in premature discussions, the concern is that you may then reach a premature final decision. And that would not be fair [and you have promised to be fair].<sup>3</sup>

Our law also does not permit you to visit a place discussed in the testimony. First, you cannot always be sure that the place is in the same condition as it was on the day in question. Second, even if it were in the same condition, once you go to a place discussed in the testimony to evaluate the evidence in light of what you see, you become a witness, not a juror. As a witness, you may now have an erroneous view of the scene that may not be subject to correction by either party. That is not fair.

Finally, our law requires that you not read or listen to any news accounts of the case, and that you not attempt to research any fact, issue, or law related to the case. Your decision must be based solely on the testimony and other evidence presented in this courtroom. It would not be fair to the parties for you to base your decision on some reporter's view or opinion, or upon information you acquire outside the courtroom.

These rules are designed to help guarantee a fair trial, and our law accordingly sets forth serious consequences if these rules are not followed.

I trust you understand and appreciate the importance of following these rules and, in accord with your oath and promise, I know you will do so.

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1. In May 2009, this charge was revised to include admonitions against utilizing electronic means and devices to research or communicate with others about the case.

In February, 2016, this charge was revised to include the paragraph that begins: "Our law recognizes that it is human nature for each of you to be forming tentative opinions...."

2. See *People v Matiash*, 197 AD2d 794,796 (3d Dept 1993) (recognizing that a juror who "kept changing her mind and reevaluating the testimony with each new piece of evidence" did not have a preexisting bias and had also not formed a premature opinion about guilt or innocence).

3. It is advisable that the court at some point during the voir dire ask jurors in some form whether they can promise the court that they will be fair in deciding the case.