

**JURY NOTE TAKING**<sup>1</sup>  
(Revised Oct. 25, 2001)

You may, but are not required to, take notes during these proceedings.<sup>2</sup>

If you wish to take notes, we will provide materials to you for that purpose.

If you decide to take notes, you must follow these rules:

You must not permit note-taking to distract you from the proceedings.

Any notes taken are only an aid to your memory and must not take precedence over your independent recollection.

Those jurors who choose not to take notes must rely on their own independent recollection, and must not be influenced by any notes that another juror may take.

Any notes you take are only for your own personal use in refreshing your recollection.

A juror's notes are not a substitute for the recorded transcript of the testimony [or for any exhibit received in evidence.] If there is a discrepancy between a juror's recollection and his or her notes regarding the evidence, you should ask to have the relevant testimony read back [or the exhibit produced in the jury room.]

In addition, a juror's notes are not a substitute for the detailed explanation I have given [or will give] you of the principles of law that govern this case. If there is a discrepancy between a juror's recollection and his or her notes regarding those principles, you should ask me to explain those principles again, and I will be happy to do so.

Each juror who intends to take notes shall print his or her

*(name or other identifier) on (specify).*

At the end of each trial day until the jury retires to deliberate, the notes will be collected from each juror who takes notes. A juror may only refer to his or her notes during the proceedings and during deliberations.

Any notes taken are confidential and shall not be available for examination or review by any party or other person. After the jury has rendered its verdict, we will collect the notes and destroy them.

1. This charge draws from the Uniform Rules for Juror Deliberation (see, 22 NYCRR §220.10 as amended effective July 20, 2001), and from *People v. Hues*, 92 N.Y.2d 413 (1998). The revision was to conform the charge to the amended rules. The Uniform Rules, inter alia, provide:

“After the jury has been sworn and before any opening statements or addresses, the court shall determine if the jurors may take notes at any stage of the proceedings. In making this determination, the court shall consider the probable length of the trial and the nature and complexity of the evidence likely to be admitted.”  
22 NYCRR § 220.10(b).

Whether to authorize note taking, and when during the proceedings to authorize it, is in the discretion of the court. *People v. Hues, supra*; *People v. DiLuca*, 85 AD2d 439 (2d Dept. 1982)

If note-taking is permitted, this instruction should be given to the jury at the beginning of the trial, and, according to the Rule, the “instructions shall be repeated at the conclusion of the case as part of the court's charge prior to the commencement of jury deliberations.”

2. If the court, in its discretion decides to limit note-taking to a particular stage of the trial, or to permit note-taking generally except for a particular stage or stages of the trial, the court can modify the first sentence to state either:

You may, but are not required to, take notes during (*specify the portion(s) of the proceedings during which note-taking is permitted*).

or

You may, but are not required to, take notes during the proceedings, except you cannot take notes during (*specify the portion(s) of the proceedings during which note-taking is prohibited*).