

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

Case No. XX-cr-XXX-pp

v.

**[DEFENDANT(S)],**

Defendant(s).

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**CRIMINAL TRIAL MATERIALS RELATING TO JURY VOIR DIRE,  
JURY SELECTION, AND PRELIMINARY INSTRUCTIONS**

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*Draft as of [DATE DRAFT COMPLETED]*

Honorable Pamela Pepper  
**[DATE OF TRIAL]**

I. PRELIMINARY MATTERS:

A. Introduction

Welcome to the federal courthouse, and to Room 222. My name is Pam Pepper, and I'm a district court judge. Today, we begin a criminal trial in **[NAME OF CASE]**, Case No. **[XX-cr-XXXX]**. To my right is Kris Wrobel, my courtroom deputy, who'll be helping me during the trial. **[To my left is \_\_\_\_\_, our court reporter.]** You've also met our courtroom security officer, Ed Graham. We hope to complete jury selection this morning. If, during the process, you need to use the restroom, or need water, Mr. Graham will be happy to help you with any issues you may have.

B. Jury Selection Process

We begin the trial by selecting a jury. For this trial, we'll be selecting **[12 jurors plus number of alternates requested]** jurors. There are several steps to the jury selection process.

In the first part of the jury selection process (called the *voir dire*), I will ask you questions. Your answers to these questions will allow the parties to get to know you, and to determine whether any of you have had experiences or feelings that might interfere with your ability to be fair and impartial in this case.

This is a criminal case. Each party in a criminal case has a right to a fair, impartial and unbiased jury. The jury selection process is designed to preserve and ensure that right. Each of us, because of our experiences,

background, education and relationships with others, has developed certain attitudes, opinions, philosophies, biases, sympathies and prejudices. No two of us think alike.

What we do, where we work, where we live, all tell something about who we are. I'm going to ask you questions about those things. The reason that we ask those questions is so that the parties and their attorneys may decide whether they believe there is anything about you or your background or experience that might influence you in the case.

In this country, we all have the right to believe whatever we like and to make decisions as we see fit. Outside of this courthouse, you can make decisions and judge people on any basis you choose—opinions about wealth, occupation, political party, religious affiliation, hair color, race, size, sex, national origin—whatever you think is important. As a human being, I have deeply-held opinions, and I suspect you have them, too. But I have taken an oath that says that as a judge, I will, to the very best of my ability, put my private views aside and decide cases on the facts and the law, and not on my personal views or biases.

If you are selected as a juror in this case, you must take an oath to do the same. The question that the parties and I must answer in jury selection is whether any of you have particular biases, such that you should not sit on the jury in this particular case. Through your answers to my questions, the lawyers and I get to know you a little bit, so that we can determine whether we believe you can be fair and impartial in this case. And you need to know a little

about the case, so that you can make your own judgment about whether you should sit as a juror in it. As I tell you what I believe the case is about, I ask that you think about whether you feel there is any reason that you should not serve on this jury.

Many, if not all of us, have biases that we do not even recognize—“implicit biases.” We are influenced by information without even realizing it. It is hard to recognize these biases, and to set them aside. But it helps to be aware that, while I do not believe that I am biased against a person of a particular gender or race, I may unknowingly be influenced by those factors. Being aware helps us guard against making decisions based on implicit bias. I ask you to be aware, throughout this trial, that you may be influenced by implicit, or unconscious biases, and try to set those biases aside.

The second part of the jury selection process is the challenges for cause. That means that either of the lawyers can ask me to excuse a potential juror from service because the lawyer believes juror cannot or will not be fair and impartial in deciding the facts and applying the law in this case. A lawyer who wants to challenge a juror for cause will provide me with the reasons that he or she believes that particular juror can't be fair and impartial. I, myself, may suggest excusing a juror, if I believe the juror's answers show that he or she cannot be fair and impartial to both parties.

The third part of the process involves what are called peremptory challenges. Each side gets a certain number of peremptory challenges. When a party makes a “peremptory” challenge to a juror, that means the lawyer does

not have to state a reason for the challenge. The law allows parties to use peremptory challenges to excuse jurors, not only to ensure that there will in fact be a fair jury, but also to insure that each side *believes* that the jury is a fair jury. The lawyers will make their challenges, and discuss them with me, outside your hearing.

Please don't feel insulted, or upset, if you are excused from service. As I indicated, each of us has certain attitudes, opinions, biases, etc. Each of us would find it hard to be fair in a particular kind of case. Even if I excuse you in this case, you may be perfectly qualified to sit on another case. On the other hand, even if you end up on the jury in this case, you may be excused from service in some future case.

Again, the name of this case is **[NAME OF CASE]**. As I said before, this is a criminal case. The party who brought the lawsuit—the plaintiff—is the United States. There **[is/are] [NUMBER OF DEFENDANTS] defendant(s): [NAME(S) OF DEFENDANT(S)]**. The case arose out of an indictment. An indictment is a formal document used by the government to start a criminal case, and to bring that case to court. The indictment also advises and informs **[the/each]** defendant of the nature of the crime the government alleges that **[s/he]** committed. An indictment is *not* evidence against a defendant, and the fact that an indictment exists does not give rise to an inference of a defendant's guilt.

This indictment contains **[number of counts] allegation(s), or count(s)**. Count One alleges that **[on/about/between DATE or DATES]**, in the State and

Eastern District of Wisconsin **["and elsewhere," if applicable], [NAME OF DEFENDANT(S)] [DESCRIPTION OF OFFENSE].**

**REPEAT FOR EVERY COUNT, IF THERE IS MORE THAN ONE.**

**[The/each]** defendant has pled not guilty to the charge**(s)** against **[him/her]**. Because **[he/she/they] [has/have]** pled not guilty, the jury selected to try this case must find the relevant facts, and determine **["as to each of the defendants," if there is more than one]** whether the evidence proves **[the/that]** defendant is guilty of the charge against **[him/her/them]**. In a criminal case, the government has the burden to prove that the defendant**(s)** **[is/are]** guilty, and the government must prove **[the/each]** defendant's guilt beyond a reasonable doubt.

I'm going to start by asking Ms. Wrobel, to administer an oath to you, in which you promise to answer the questions I ask you truthfully. Your obligation to answer truthfully is a powerful one. At this point, the lawyers know little about you, and your answers to my questions help us determine whether you are qualified to serve as a fair juror in this case. It is critical that you answer candidly and completely, because your answers bear on the parties' right to a fair trial. If you would prefer to answer any question outside the hearing of your fellow jury panel members, please let me know, and you can give your answer to the lawyers and me privately at sidebar.

[Ms. Wrobel administers the oath.]

II. VOIR DIRE

A. The parties and I understand that jury service disrupts your usual routine, and is inconvenient to many of you. But it is a service that our government asks of us as citizens, and it is critical to a fair and just legal system. There are people who feel they are too busy, or are sick, or have moral or religious objections to serving, regardless of what the case is about, or who the parties are. Those are not necessarily reasons for me or the parties to excuse a juror, but it is important that the parties know if you are not willing to serve.

Is there anyone here who believes that he or she should not be on the jury no matter what the case is about, or who the parties or witnesses are?

B. Before I start asking you questions about your qualifications to serve as jurors, I'll ask each of you to stand and provide a little background information about yourself. You see that on the screens in the courtroom we have several questions—you can refer to the questions on the screen for a reminder of the information I will ask each of you to provide. That information includes:

1. Your juror number—not your name;
2. Your age;
3. The community or neighborhood where you live (not your street address), and if you've lived there less than ten years, any other places you've lived during that time;
4. Your marital status;

5. Your occupation, as well as that of your spouse or significant other, if you have one. If you're retired, share with us what you did before you retired; and

6. Your educational background—how far you went in school.

C. **[NAMES OF PROSECUTORS]**, could you please introduce yourselves **[and any representative seated with you at counsel table]** and tell the jury where you work? Does anyone know **[NAMES OF PROSECUTORS]** **[NAME(S) OF REPRESENTATIVE(S)]**? Do any of you know anyone employed at the United States Attorney's Office? Do any of you know anyone employed at **[REPRESENTATIVE AGENCY/AGENCIES]**?

D. **[NAMES OF DEFENSE ATTORNEY(S)]**, could you please introduce **[yourself/yourselves]** **[and any paralegal/investigator/whatever seated with you at counsel table]**, tell us where you work, and introduce your client? Does anyone know **[NAME(S) OF DEFENSE ATTORNEY(S)]**? Does anyone know **[NAME(S) OF DEFENDANT(S)]**?

E. Do any of you know any of the other members of the jury panel here in the courtroom today?

F. **[NAMES OF PROSECUTORS]**, could you tell the jurors the names of the witnesses you may possibly call in the case and their employers? Does anyone know any of these individuals?

G. **[NAME(S) OF DEFENSE ATTORNEY(S)]**, could you tell us the names of witnesses you may possibly call in this case? **[IF THE DEFENDANT**



**DOES NOT PLAN TO CALL WITNESSES, I'LL REMOVE THIS QUESTION.]** Does anyone know any of these individuals?

H. The attorneys estimate that this trial will last **[ESTIMATED NUMBER OF TRIAL DAYS FROM PRETRIAL REPORT]** days—that is, until **[ACTUAL DATE ON WHICH TRIAL IS ESTIMATED TO END]**. Are there any of you who have travel, doctor's appointments, or other commitments that you cannot change, that would prevent you from attending and committing to paying attention in the two weeks between now and **[ACTUAL DATE TRIAL IS ESTIMATED TO END]**?

I. Our trial days start at 9:00 a.m., and, unless something unusual happens, end between 5:00 and 5:30 p.m. During each trial day, we take a morning break, a lunch recess and an afternoon break. We also may take breaks when the lawyers and I need to discuss legal issues. Is there anyone who has any health problems—including hearing problems, vision problems, disabilities or medication issues—that would make it difficult for you to follow that schedule, or to hear or see testimony and other evidence?

J. Have any of you read, or heard, anything about this case, or any of the defendants, before you came here today?

K. Have any of you ever served on a grand jury, either in federal or state court? If so, when and for how long? Was there anything about that experience that would make it difficult for you to serve as a juror at a trial?

L. Has anyone ever served on a jury before—either in state or federal court?

1. Was it a criminal case or a civil case?
2. Were you the foreperson?
3. Did the jury reach a verdict?
4. Is there anything about that experience that would make it difficult for you to be fair and impartial in this case?

M. Do any of you have any legal training or experience? Do any of you have any specialized knowledge of the law?

N. Has any of you ever been a party to a lawsuit—in other words, have you ever sued anyone, or had someone sue you? If so, please tell us what kind of lawsuit it was, and how long ago it took place. Was there anything about that experience that would make it difficult for you to be fair in this case?

O. Have any of you ever been a witness, or an expert witness, in any kind of proceeding where you testified under oath (including a deposition)? If so, please tell us about that experience.

P. Is there anyone who, because of particular feelings about our judicial system—including judges and lawyers—would not be able to serve as a fair and impartial juror in the case?

Q. Is there anyone who has strong feelings about the federal government—including government agencies like the **[INVESTIGATING AGENCY/AGENCIES]**—that might affect your ability to listen fairly and

impartially to the evidence in this case, and to render a verdict in accordance with that evidence and with the law that I provide you?

R. Do you have any relatives or close friends who are lawyers? What is your relationship with that person, and what kind of law do they practice? Do they talk to you about their work? Is there anything about your relationship with that person which would make it difficult for you to be fair and impartial in this case?

S. Do you have any relatives or close friends who work in law firms or legal offices—perhaps as paralegals, administrative assistants, investigators? Who are they, and what kind of work do they do? Do they talk to you about their work? Is there anything about your relationship with that person, or anything they've told you, that would make it difficult for you to be fair and impartial in this case?

T. Have you, or any close family member or friend, ever been employed in the court system, either municipal, state or federal? If so, please describe the job.

U. Have any of you ever been employed by, or volunteered for, a law enforcement agency—local, state or federal? If so, please share the name of the agency, when you worked there, and what you did.

V. Do you have any close family members or friends who are employed by a law enforcement agency? If so, please share the name of the agency and what they do.

W. Specifically, do you have any close family members or friends who are employed by the **[INVESTIGATING AGENCY/AGENCIES]**, or by a state law enforcement agency that investigates drug offenses? If so, please tell us your relationship with them, and what job they hold with that agency.

X. Have any of you, a close family member or a close friend ever had any experience with federal, state or local government that might affect your ability to be fair and impartial in this case?

Y. Is there anyone who has strong feelings about the police or law enforcement—positive or negative—that might affect your ability to serve as a fair and impartial juror in a case involving investigation or testimony by law enforcement officers?

Z. Is there anyone who would find it difficult to assess the testimony or credibility of a law enforcement officer the same way you would assess the testimony or credibility of any other witness?

AA. Have any of you, or any of your close family members or friends, ever been employed in corrections (*i.e.*, as a prison guard or a probation officer or in some other capacity)? If so, please tell us who, and describe the job.

BB. Have any of you ever served in the military? If so, in what branch, in what capacity and during what period?

CC. Have you, a close family member or a close friend ever been arrested? [Follow-ups: How long ago? What law enforcement agency? Anything about that experience that would make it difficult for you to be fair in this case?]

DD. Have you, or any close family members or friends been convicted of a crime? [Follow-ups: State or federal court? Anything about that experience that would make it difficult for you to be fair in this criminal case?]

EE. Have you, or any close family members or friends, ever been the victim of a crime? [Follow-ups: Who was the victim? Anything about that experience that would make it difficult for you to be fair in this case?]

FF. Have any of you, or any close family members or friends, been a witness to a crime? [Follow ups, if necessary.]

GG. Have any of you, or any close family members or friends, ever had a direct interest in the outcome of a criminal case? [Follow-ups, if necessary.]

HH. **[QUESTIONS PARTICULAR TO THE CASE]**

II. Do any of you have any moral or philosophical objections to sitting in judgment of another person or entity?

TT. I realize you don't know much about the case, but is there anything that you have heard up to this point that would make it difficult for you to be fair and impartial to both the government and **[the defendant/each of the defendants]**?

UU. At both the beginning and the end of the trial, I am going to give you instructions on the law that governs this case. Is there anyone who is unable to follow that law, and those instructions, even if you do not agree with them?

VV. Is there anyone who, if you were selected to serve as a juror, would not be able to render a verdict based on the evidence (which consists of the testimony of the witnesses and the exhibits that I admit at trial) and on the law that I will provide you?

WW. Is there anyone who would like to tell me or the parties anything outside the hearing of the other jurors that might impact your ability to be a fair and impartial juror to both the government and **[the defendant/each of the defendants]** in this case?

XX. Is there anything about this case that reminds you of something in your own life? Is there anything about that similarity that would make it hard for you to be fair to both the government and **[the defendant/each of the defendants]** in this case?

YY. Do any of you have any reason at all—perhaps something I haven't asked you about—why you could not sit as a fair and impartial juror in this case?

ZZ. Here's my final question: If you were the government or **[the defendant/one of the defendants]** in this case, is there any reason that you would not want someone with your views or frame of mind sitting on your jury?

### III. POST-VOIR DIRE PROCEDURE

A. The court consults with the lawyers and excludes from consideration any jurors challenged for cause.

B. The government has six peremptory challenges and the defendants have ten peremptory challenges (the court deems multiple defendants a single party for purposes of challenges). Fed. R. Crim. P. 24(b)(2). **[IN A MULTI-DEFENDANT CASE, NOTE WHETHER ANY DEFENDANT HAS ASKED FOR ADDITIONAL PEREMPTORY CHALLENGES.]** Twelve jurors will serve. From the first or last twenty-eight remaining members of the venire, the parties will make their peremptory strikes by alternating—the government will start with one strike, and the defendant(s) will make two, for the first four rounds. In the last two rounds, each side will make one strike. This should result in twelve remaining jurors.

C. Once the lawyers have exercised their peremptory strikes and selected twelve jurors, the government and the defense **[INSERT “(collectively)” IN MULTI-DEFENDANT CASES]** each will exercise one additional strike out of the next four members of the venire. The two remaining members will be the alternates.

D. The court gets the final list. If, for any reason, either side has not exercised all its strikes, the court will eliminate the appropriate number of names from the bottom of the list.

E. The court hands the list back to Ms. Wrobel, who reads the numbers of the jurors and the alternates (not distinguishing between them). The court then instructs the venire as follows:

1. If Ms. Wrobel called your number and you are in the jury box, please remain seated.

2. If Ms. Wrobel called your number and you are in the back of the room, please move into the jury box.
3. If Ms. Wrobel did not call your number at all, please move to the back of the room and stay there until I excuse you.

F. The jurors get settled. Ms. Wrobel calls the roll of the jurors' numbers and asks each to respond with "here" and to raise his or his hand.

G. Ms. Wrobel administers the oath to the jury. The balance of the venire are excused or instructed to report elsewhere.

H. The court thanks the jury panel for their time and cooperation.

#### IV. PRELIMINARY INSTRUCTIONS:

##### A. 10.01 FUNCTIONS OF COURT AND JURY

Members of the jury: You are now the jury in this case. I would like to take a few minutes to describe your duties as jurors and to give you instructions concerning the case.

As the judge in this case, one of my duties is to decide all questions of law and procedure. In these preliminary instructions, during the trial, and at the end of the trial, I will instruct you on the rules of law that you must follow in making your decision. The instructions that I give you at the end of the trial will be more detailed than the instructions I am giving you now, and when the trial is over, I will give you a copy of the more detailed, end-of-trial instructions.

You have two duties as jurors. Your first duty is to decide the facts from the evidence that you see and hear in court. Your second duty is to take the law as I give it to you, apply it to the facts, and decide—as to each defendant—



whether the government has proved that defendant guilty beyond a reasonable doubt.

You must perform these duties fairly and impartially. Do not let sympathy, prejudice, fear, or public opinion influence you. In addition, to not let any person's race, color, religion, national ancestry, or gender influence you.

You should not take anything I say or do during the trial as indicating what I think of the evidence or what I think your verdict should be.

B. 10.02 THE CHARGE

The charge(s) against the defendant(s) **[is/are]** in a document called an indictment. You will have a copy of the indictment during your deliberations.

Count One alleges that **[on/about/between DATE or DATES]**, in the State and Eastern District of Wisconsin **["and elsewhere," if applicable]**, **[NAME OF DEFENDANT(S)] [DESCRIPTION OF OFFENSE]**.

**REPEAT FOR EVERY COUNT, IF THERE IS MORE THAN ONE.**

**[The defendant/All (NUMBER DEFENDANTS) defendants] [has/have]** pleaded not guilty to the charges.

The indictment is simply the formal way of telling the **defendant(s)** what crime(s) **[he/she/they] [is/are]** accused of committing. It is not evidence that the **defendant(s) [is/are]** guilty. It does not even raise a suspicion of guilt.

C. 10.03 PRESUMPTION OF INNOCENCE/BURDEN OF PROOF

**[The/Each]** defendant is presumed innocent of **(the/each and every one of the)** charge(s). This presumption continues throughout the case. It is

not overcome unless, from all the evidence in the case, you are convinced that the [add “particular” in multi-defendant cases] defendant [add “you are considering” in multi-defendant cases] is guilty as charged.

The government has the burden of proving **(the/each)** defendant’s guilt beyond a reasonable doubt. This burden of proof stays with the government throughout the case.

A defendant is never required to prove **(his/her)** innocence. **(She/He)** is not required to produce any evidence at all.

D. 10.04 THE EVIDENCE (Modified)

You may consider only the evidence that you see and hear in court. You may not consider anything that you may see or hear outside of court, including anything from the newspaper, television, radio, the Internet or any other source.

The evidence includes only what the witnesses say when they are testifying under oath, the exhibits that I allow into evidence, and any facts to which the parties agree, or “stipulate.” A stipulation is an agreement that certain facts are true or that a witness would have given certain testimony.

Nothing else is evidence. Any statements and arguments that the lawyers make are not evidence. If what a lawyer says is different from the evidence as you hear or see it, the evidence is what counts. The lawyers’ questions and objections likewise are not evidence.

A lawyer has a duty to object if he thinks a question or evidence is improper. When a lawyer makes an objection, I will be required to rule on the objection. If I sustain an objection to a question a lawyer asks (which means I won't allow the witness to answer), you must not speculate on what the answer might have been or draw an inference from an unanswered question. If I strike testimony or an exhibit from the record, or tell you to disregard something, you must not consider it.

I don't allow the lawyers to argue about objections to evidence in your presence. I'll base my ruling on objections solely on the law, which is why you, as jurors, are not involved in that process. You must not infer from any ruling that I make or from anything that I say during the trial that I hold any views for or against either party.

Pay close attention to the evidence as it is being presented. During your deliberations, you will have exhibits that I allow into evidence, but you will not have a transcript of the testimony. You will have to make your decision based on what you recall of the evidence, aided by any notes you take. I will discuss notes in a moment.

**[ADD IF THERE WILL BE INTERPRETERS]**

**E. 10.05 TESTIMONY PRESENTED THROUGH INTERPRETER**

**[LANGUAGE] may be used during the trial. When that happens, you should consider only the evidence provided through the official interpreter. Although some of you may speak or understand [LANGUAGE],**

**it is important for all jurors to consider the same evidence. For this reason, you must base your decision on the evidence presented in the English translation.**

F. 10.06 DIRECT AND CIRCUMSTANTIAL EVIDENCE

You may have heard the terms “direct evidence” and “circumstantial evidence.” Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves a fact.

You are to consider both direct and circumstantial evidence. The law does not say that one is better than the other. It is up to you to decide how much weight to give to any evidence, whether direct or circumstantial.

G. 10.07 CONSIDERING THE EVIDENCE

Give the evidence whatever weight you believe it deserves. Use your common sense in weighing the evidence, and consider the evidence in light of your own everyday experience.

People sometimes look at one fact and conclude from it that another fact exists. This is called an inference. You are allowed to make reasonable inferences, so long as they are based on the evidence.

H. 10.08 CREDIBILITY OF WITNESSES (Modified)

Part of your job as jurors will be to decide how believable each witness is, and how much weight to give each witness’s testimony.

You may accept all of what a witness says, or part of it, or none of it. I caution you, however, not to prejudge the credibility of any witness until you have heard all the evidence, including the testimony of all the witnesses.

In judging the credibility of a witness, you should consider factors such as the intelligence of the witness; the witness's ability and opportunity to see, hear, or know the things the witness testified about; the witness's memory; the witness's demeanor; whether the witness had any bias, prejudice, or other reason to lie or slant the testimony; the truthfulness and accuracy of the witness's testimony in light of the other evidence presented; and inconsistent or consistent statements or conduct by the witness.

I. 10.09 NUMBER OF WITNESSES

Do not make any decisions by simply counting the number of witnesses who testified about a certain point.

What is important is how believable the witnesses were and how much weight you think their testimony deserves.

J. 2.01 DEFENDANT'S RIGHT NOT TO TESTIFY

A defendant has an absolute right not to testify or present evidence. You may not consider in any way the fact that a defendant may choose not to testify or to present evidence. You should not even discuss it in your deliberations.

K. 10.10 JUROR NOTE-TAKING (Modified)

I will permit you to take notes during the trial, if you would like to do so. If you take notes, you may use them during deliberations to help you remember what happened during the trial. But please keep your notes to

yourself until the end of the trial, when you and your fellow jurors go to the jury room to decide the case. You should use your notes only as aids to your memory. The notes are not evidence. Whether or not you choose to take notes, each of you should rely on your independent recollection of the evidence, and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any more weight than the memory or impressions of each juror. Also, if you choose to take notes, do not let note-taking distract you so that you do not hear other answers by witnesses.

Mr. Graham will pass out pens and notebooks after the opening statements. When you leave the courtroom during breaks, you will leave your notebooks on your chairs; Mr. Graham will make sure they are there for you when we resume. He will collect the notebooks a final time before closing statements and have them available for you in the jury room when you begin your deliberations.

L. 10.11 JUROR CONDUCT (Modified)

There are several rules of conduct that you, as jurors, must follow.

First, you should keep an open mind throughout the trial. Do not make up your mind about what your verdict should be until after the trial is over, you have received my final instructions on the law, and you and your fellow jurors have discussed the evidence.

Your verdict in this case must be based exclusively on the law as I give it to you and the evidence that is presented during the trial. For this reason, and to ensure fairness to both sides in this case, you must obey the following rules.

These rules apply both when you are here in court and when you are not in court. They apply until after you have returned your verdict in the case.

You must not discuss the case, including anyone who is involved in the case, among yourselves until you go to the jury room to deliberate after the trial is completed.

You must not communicate with anyone about this case, including anyone who is involved in the case, until after you have returned your verdict.

When you are not in the courtroom, you must not allow anyone to communicate with you about the case or give you any information about the case, or about anyone who is involved in the case. If someone tries to communicate with you about the case or someone who is involved in the case, or if you overhear or learn any information about the case or someone involved in the case when you are not in the courtroom, you must report this to me, through Mr. Graham, as soon as possible.

You may tell your family and your employer that you are serving on a jury, so that you can explain that you have to be in court. However, you must not communicate with them about the case or anyone who is involved in the case until after you have reached your verdict.

You may not speak, whether inside or outside of the courtroom, with any of the parties, their lawyers or any witnesses. I don't just mean that you cannot talk to them about the case; you may not speak to them at all, even to pass the time of day. They can't talk to you, either—if they see you in a hallway or on the sidewalk, they will not greet you or acknowledge you. They are not being

rude. They are following my instructions, just like you must follow them, to ensure the absolute impartiality they are entitled to expect from you as jurors.

All the information that you will need to decide the case will be presented here in court. You may not look up, obtain, or consider information from any outside source.

There are two reasons for these rules. First, it would not be fair to the parties in the case for you to consider outside information or communicate information about the case to others. Second, outside information may be incorrect or misleading.

When I say that you may not obtain or consider any information from outside sources, and may not communicate with anyone about the case, I am referring to any and all means by which people communicate or obtain information. This includes, for example, face-to-face conversations; looking things up; doing research; reading, watching or listening to reports in the news media; and any communication using any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Android, Blackberry or similar device, PDA, computer, tablet, the Internet, text messaging, instant messaging apps such as WhatsApp or 3-QQ or WeChat, chat rooms, blogs (including platforms like Tumblr), social networking websites like Facebook, YouTube, Twitter, Google Currents or Google+ for G Suite, LinkedIn, Snapchat, Instagram, Reddit or any other form of communication at all. If you hear, see, or receive any information about the case by these or any other means, you must report that to me, through Mr. Graham, immediately.



## M. OTHER MATTERS

I explained during jury selection our usual trial schedule. In order to make the best use of everyone's time, it is important for you all to be prompt—to be in the jury room in time to resume at the time I set after each break. There is no smoking allowed in this building. If you need to smoke, you must go outside during a break in the trial, and you should consider this when making sure you have enough time to get back to the jury room by the time we are ready to resume after each break. There is no cafeteria in the building, although there are vending machines on the first floor. You may bring a lunch, or leave the building to go to a local place to eat (Mr. Graham can make suggestions if you are unfamiliar with the area around the courthouse), but again, if you decide to leave the building, make sure to be back in the jury room by the time we are ready to resume.

The lawyers and I will make every effort to make good use of your time, as well, although we will have to take unscheduled breaks at times to discuss legal issues outside your presence. Please know that when you are not in the courtroom with us, we are working as hard as we can to resolve issues efficiently.

Once the trial has started, you cannot come back into courtroom without Mr. Graham. After you have left the courtroom, the lawyers, parties and I frequently remain to discuss legal issues, and it would not be appropriate for you to return to the courtroom during those discussions.

If you need to communicate with me at any time during the trial, the appropriate way to do so is through Mr. Graham.

N. 10.12 CONDUCT OF THE TRIAL (Modified)

Now we are ready to begin the trial. It will proceed in the following manner:

First, each party's attorney may make an opening statement, but no lawyer is required to make an opening statement. An opening statement is not evidence. It is a summary of what each party's attorney expects the evidence will show—a road map.

After the opening statements, you will hear the evidence.

After the evidence has been presented, the attorneys will have the opportunity to make closing arguments. Again, a closing argument is not evidence. Closing arguments give the parties the opportunity to explain their view of the evidence, and to explain what conclusions they believe you should draw from the evidence.

After closing arguments, I will instruct you on the law that applies to the case.

After that, you will go to the jury room to deliberate on your verdict.