

PRELIMINARY INSTRUCTIONS NO. 1 JURY CONDUCT

To ensure fairness, you must obey the following rules:

1. Do not talk to each other about this case, or about anyone involved with this case, until the end of the trial when you go to the jury room to decide on your verdict.

This rule applies even when the Court is not in session and when there is a recess of the trial.

2. Do not talk with anyone else about this case, or about anyone involved with this case, until the trial has ended and you have been discharged as jurors. "Anyone else" includes members of your family and your friends. You can tell anyone who needs to know, such as family members, employers, employees, teachers, etc., that you are a juror in a case and the judge has ordered you not to discuss the case until you have reached a verdict and been discharged from the case.
3. Outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with the case until the trial has ended. If someone should try to talk to you about the case during the trial, please report it to me immediately.
4. During the trial you should not talk with or speak to any of the parties, lawyers or witnesses involved in this case – you should not even pass the time of the day with any of them. It is important not only that you do justice in this case, but that you also give the appearance of doing justice. If any lawyer, party or witness does not speak to you when you pass in the hall, ride the elevator or the like, remember it is because they are not supposed to talk or visit with you either.
5. During the course of the trial you will receive all the evidence you legally may consider to decide the case. Researching or gathering any information on your own that you think might be helpful is against the law and would be a violation of your oath. Do not engage in any internet or other outside reading or research in this case.

Do not consult dictionaries, maps, or make any investigation about the case, the lawyers, the parties, or the witnesses. ~~I wish I did not have to dwell on this topic, but recent events in another trial in this District, and recent technologies, require me to point out that some common practices and habits~~

~~many of you enjoy are strictly forbidden in your role as jurors.~~ You may not, under any circumstances, have your cell phones or other electronic devices, Blackberries, I-phones or the like on when court is in session. Whether you are in court or away from court during recess you may not “google, twitter, tweet, text message, blog, post” or take any other action that has anything to do with this case. To do so could cause a mistrial, meaning all of our efforts over the course of the trial would have been wasted and we would have to start all over again with a new trial before a new jury. If you were to cause a mistrial by violating this order, you could be subject to paying all the costs of these proceedings and you could also be punished for contempt of court.

~~This is not a trivial matter. A few years back, after the evidence in a criminal case was completed, one juror, despite this order, “googled” maps on the internet that she thought were relevant to the case. A mistrial was declared in that case and the juror faced contempt of court charges that could result in her being jailed and/or ordered to reimburse both the prosecution and the defense for costs and fees incurred in the trial.~~

~~Her actions compromised a year-long investigation and prosecution, violated the defendant's right to know and confront all the evidence against him, and wasted all of the time expended by the court, counsel, and her fellow jurors to hear the case.~~

Fairness to all concerned requires that all of us connected with this case deal with the information and with nothing other than the same information produced in this courtroom.

6. Do not decide during the trial what the verdict should be. Keep an open mind throughout the trial, reaching your conclusion only after you have gone to the jury room to decide the case and you and your fellow jurors have discussed all the evidence.
7. If you need to tell me something, simply give a signed note to the Court Room Deputy and she will give it to me.

PRELIMINARY INSTRUCTION NO. 2
All Persons Equal Before the Law—Implicit Bias

You should consider and decide this case as a dispute between persons of equal standing in the community, of equal worth, and holding the same or similar stations in life. Corporations and governmental agencies are entitled to the same fair trial as a private individual. All persons, including corporations, governmental agencies, and other organizations stand equal before the law, and are to be treated as equals. You should not be influenced by who the parties are, or who the witnesses are, i.e., whether they are rich or poor, young or old, well-educated or not.

You also should be aware of the natural human tendency to look at others, and to filter what they have to say, through the lens of our own personal experience and background. Because we all do this, we often see life – and evaluate evidence – in a way that tends to favor people who are like ourselves or who have had life experiences like our own. In deciding this case, I urge you to be aware of this natural human tendency to stereotype other people and to make assumptions about them based on the stereotypes, and I urge you to avoid such stereotyping.

PRELIMINARY INSTRUCTION NO. 3

INTRODUCTION

At the end of the trial I will give you detailed guidance on the law and on how you will go about reaching your decision. But now I simply want to generally explain how the trial will proceed.

This criminal case has been brought by the United States Government. I will sometimes refer to the Government as the prosecution. The Government is represented by Assistant United States Attorney _____. Defendant _____ is represented by_____.

By Indictment, the Grand Jury has charged Defendants with the commission of the following offenses:

- 1.
- 2.
- 3.

To these charges, the Defendant has entered a plea of not guilty.

The indictment is simply the description of the charge made by the Government against the Defendants; it is not evidence of guilt or anything else. The Defendant has pleaded not guilty and is presumed innocent. The Defendant may not be found guilty by you unless all twelve of you unanimously find that the Government has proved his guilt on each count beyond a reasonable doubt.

The first step in the trial will be the opening statements. The Government in its opening statement will tell you about the evidence which it intends to put before you. Just as the indictment is not evidence, neither is the opening statement. Its purpose is only to help you understand what the evidence will be. It is a road map to show you what is ahead.

After the Government's opening statement, the Defendant may make an opening statement or the Defendant may wait until after the presentation of the Government's case before he makes his opening statement.

Evidence will be presented from which you will have to determine the facts. The evidence will consist of the testimony of the witnesses, documents, and other things received into the record as exhibits, and any facts about which the lawyers agree or to which they stipulate.

The Government will offer its evidence. After the Government's evidence, the Defendant may present evidence, but he is not required to do so. I remind you that the Defendant is presumed innocent and it is the Government that must prove the Defendant's guilt beyond a reasonable doubt. If the Defendant submits evidence, the Government may introduce rebuttal evidence.

At times during the trial, a lawyer may make an objection to a question asked by another lawyer, or to an answer by a witness. This simply means that the lawyer or party is requesting that I make a decision on a particular rule of law. Do not draw any conclusion from such objections or from my rulings on the objections. If I sustain an objection to a question, the witness may not answer it. Do not attempt to guess what answer might have been given if I had allowed the answer. If I overrule the objection, treat the answer as any other. If I tell you not to consider a particular statement, you may not refer to that statement in your later deliberations. Similarly, if I tell you to consider a particular piece of evidence for a specific purpose, you may consider it only for that purpose.

During the course of the trial I may have to interrupt the proceedings to confer with the attorneys or parties about the rules of law that should apply. Sometimes we will talk briefly, at the bench. But some of these conferences may take more time, so I will excuse you from the courtroom. I will try to avoid such interruptions whenever possible, but please be patient even if the trial seems to be moving slowly because conferences often actually save time in the end.

You are to consider all the evidence received in this trial. It will be up to you to decide what evidence to believe and how much of any witness's testimony to accept or reject. After you have heard all the evidence on both sides, I will instruct you on the rules of law that you are to use in reaching your verdict, and then the Government and the Defendants will each be given time for their final arguments.

The court reporter is making stenographic notes of everything that is said. This is basically to assist any appeals. A typewritten copy of the testimony will not be available for your use during deliberations. If you would like to take notes during the trial, you may do so. You have been provided with a pen and pad. On the other hand, you are not required to take notes if you prefer not to do so. Each of you should make your own decision about this. If you do decide to take notes, be careful not to get so involved in the note taking that you become distracted from the ongoing proceedings. Your notes should be used only as memory aids. You should not give your notes precedence over your independent recollection of the evidence. If you do not take notes, you should rely upon your own independent recollection of the proceedings and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the memory or impression of each juror as to what the

testimony may have been. Whether you take notes or not, each of you must form and express your own opinion as to the facts of the case.

~~As I instructed you immediately after you were sworn in as jurors, during the course of the trial, you should not talk with any witness, or with the Defendants, or with any of the lawyers at all. In addition, during the course of the trial you should not talk about the trial with anyone else. Also, you should not discuss this case among yourselves until I have instructed you on the law and you have gone to the jury room to make your decision at the end of the trial. It is important that you wait until all the evidence is received and you have heard my instructions on the controlling rules of law before you deliberate among yourselves.~~

~~In addition, as I instructed you immediately after you were sworn in as jurors, you will receive all the evidence you may consider to decide the case, including any exhibits admitted into evidence. Because of this, you should not attempt to gather any information on your own that you think might be helpful. Do not engage in any outside reading on this case, do not attempt to visit any places mentioned in the case, and do not in any other way try to learn about the case outside the courtroom. This includes electronic research. You are not to "google" or do any other type of computer or electronic research.~~

Now that the trial has begun you must not hear or read about it in the media. The reason for this is that your decision in this case must be made solely on the evidence presented at the trial.

[I am now going to read to you the jury instructions that pertain to your deliberations (elements instructions for each count).]