

**Best Practices Recommendations Re Electronic Devices:
Ensuring Security and Integrity of Jury Trials**

Adopted by the
Judicial Council of the Ninth Circuit
June 2013

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I. Introduction

In February 2010, the Ninth Circuit Judicial Council approved "Electronic Devices Recommendations" made by its Special Subcommittee.¹ The Recommendations recognized the inherent authority of a presiding judge to control the use of electronic devices in a proceeding; the potential for misuse of such devices by jurors, among others; and the need for districts in the Circuit to address these issues with local policies widely disseminated to the bar, the public, and media in order to prohibit interference with the administration of justice and to promote the integrity and security of court proceedings.

Noting that anyone should be permitted to bring electronic devices into Ninth Circuit courthouses, the Recommendations generally urged the following:

- Except as permitted for educational or ceremonial purposes, taking photographs and/or making recordings should be prohibited throughout the courthouse;
- Using electronic devices for email, telephone, text-messaging, or other transmission and receipt of data should be permitted in public areas of the courthouse;
- Use of electronic devices should be prohibited in courtrooms except as permitted by a presiding judge (e.g. for note-taking);
- Judges should take steps to ensure excluded witnesses do not access published accounts of testimony of other witnesses before giving their own testimony; and

As to jurors in particular, the Recommendations made several suggestions:

- permitting persons summoned for jury duty the same access to electronic devices as others in the public areas of the courthouse;
- limiting a seated juror's use of electronic devices as determined by the judge presiding in the proceeding;
- urging judges to give clear instructions to jurors not to use electronic devices for any case-related purpose including research or communication of a juror's views via social media or any internet feature;

¹A copy of the Recommendations as approved is attached as Appendix 1.

- anticipating that jurors may desire to take notes on electronic devices but noting the need to have a process to safeguard such data and to avoid a chilling effect on free discussion among deliberating jurors if a juror takes electronically recorded notes of the deliberations;
- dealing with juror consideration during deliberation of evidence in an electronic format (See Model Civil Jury Instruction 2.14); and
- providing advance information to persons summoned for jury duty as to court policies and instructions concerning the use of electronic devices.

The Jury Trial Improvement Committee (JTIC) endorses these original recommendations and, in particular, the view that any person should be permitted to bring electronic devices into Ninth Circuit courthouses, subject to applicable court rules.

The JTIC recognizes that uses of electronic devices by jurors, counsel, litigants, court staff, and members of the media and general public, in and out of the courthouse, are ever-evolving and, thus, continue to have the potential to affect the integrity and security of jury proceedings. Accordingly, as part of the JTIC's continuing charge to "develop and implement innovative approaches that both improve the juror experience for citizens and contribute to better court management of the jury system," and building on the work of Judicial Council's Special Subcommittee, the JTIC provides these updated "Best Practices Recommendations re Electronic Devices: Ensuring the Security and Integrity of Jury Trials."

II. BEST PRACTICES RECOMMENDATIONS RE ELECTRONIC DEVICES AND JURY TRIALS

GOAL 1: Each court should articulate its policies and requirements concerning the use of electronic devices, specifying (a) to whom they apply; (b) the devices and functions to which they apply; and (c) when and where they apply.

The JTIC notes the ubiquitous use of electronic devices includes the possibility that such devices might be used by jurors - or by lawyers, litigants, witnesses, the media or the public in a manner that might reach jurors - to transmit or to receive information about a case, the issues it involves, its participants, or a host of other subjects that could affect jurors and jury proceedings. In order to avoid predictable uses that could affect the integrity and security of jury proceedings, the JTIC urges all courts to adopt specific policies and requirements concerning the use of electronic devices in connection with any court proceeding or matter.

In developing such policies and requirements, a court should take into account:

- the different needs and interests of jurors, lawyers, litigants, witnesses, the media or the public in using electronic devices in connection with any court proceeding or matter, including the legitimate need for jurors to stay in appropriate contact with family and work;
- the many different functions of today's ever-evolving devices (telephone, email, texting, social media and the receipt/transmission of other data, photography, audio-visual recording, etc.);
- the need to avoid unduly restrictive policies and the concomitant chilling effect such policies may have on a juror's willingness to serve;
- the different times and places at which electronic devices can be used while still potentially affecting a jury proceeding;² and
- the need for all concerned to remain vigilant for both intentional and inadvertent uses of electronic devices by any person in violation of court policies.

²The needs and interests of non-juror constituents are addressed generally in the Special Subcommittee's Recommendations.

GOAL 2: Each court should provide advance information to prospective jurors about the policies and requirements concerning use of electronic devices.

With respect to prospective jurors, the JTIC recommends each court provide advance information in the jury summons and on the court's website about the policies and requirements concerning electronic devices that:

1. informs prospective jurors of the permitted and prohibited uses of electronic devices, including the ability for jurors to stay in appropriate contact with family and work, and specifying when, where, and the specific devices and functions to which the policies and requirements apply;
2. instructs prospective jurors not to post on Facebook or otherwise to publicize any information about their prospective jury status in order to avoid exposure to any material that might affect a juror's ability to serve; and
3. instructs prospective jurors to avoid electronic, in-person, or other contact about their prospective jury service or anything to do with it.

In addition, the JTIC recommends each trial court post on its website the JTIC video, "We the People: The Honor of Jury Service," and suggest in the jury summons that prospective jurors view the video before arrival for jury selection.

Upon a prospective juror's arrival for jury selection, a court should:

1. provide repeated instruction about the permitted and prohibited uses of electronic devices and the reasons for the rules;³
2. inquire in voir dire of a prospective juror's willingness to comply with such instructions until discharge from service; and

³ See, e.g., 9th Circuit Model Criminal Jury Instruction Nos. 1.8 and 7.2; 9th Circuit Model Civil Jury Instruction No. 1.12; Judicial Conference (U.S.) Court Administration and Case Management Committee's Proposed Model Jury Instructions, December 2009(attached as Appendix 2); American College of Trial Lawyers 2010 "Jury Instructions Cautioning Against Use of the Internet and Social Networking" (attached as Appendix 3); Jury Assembly Room Poster from the Central District of California (attached as Appendix 4); Courtroom Poster from the State of California (attached as Appendix 5).

3. inquire in voir dire regarding any prior electronic, in-person, or other exposure to the case or anything to do with it.

GOAL 3: Each court should provide repeated instruction to seated jurors about the policies and requirements concerning use of electronic devices.

With respect to seated jurors, this Committee recommends each court should:

1. provide repeated instruction at the beginning of and as necessary during trial about the permitted and prohibited uses of electronic devices, the reasons for the rules, and each juror's duty to report any perceived violation of the rules;
2. post reminders about the rules in the Jury Assembly Room and the jury deliberation room (See Appendix 3 and Appendix 4);
3. consider in appropriate cases using a "pledge" from each seated juror to emphasize the juror's duty to comply with the rules regarding permitted and prohibited uses of electronic devices;
4. include in the final written jury instructions a reminder about the permitted and prohibited uses of electronic devices; and
5. ensure each juror knows of the duty to report if the juror learns of possible noncompliance.

GOAL 4: Each court should provide clear information to all other constituents about the policies and requirements concerning use of electronic devices.

The Committee recommends a court should provide clear information on the court's website and via posted instruction in public areas of a courthouse specifying the policies and requirements concerning the use of electronic devices by lawyers, the media, potential witnesses, interested observers and the public. As necessary, a presiding judge should provide specific instruction for constituents in a courtroom and should ensure vigilance is maintained for both intentional and inadvertent uses of electronic devices by any person in violation of court policies.

III. Appendix

1. Special Subcommittee for Electronic Devices
Recommendations Approved by the Judicial Council
February 25, 2010.
2. Judicial Conference (U.S.) Court Administration
and Case Management Committee's Proposed Model
Jury Instructions, December 2009.
3. American College of Trial Lawyers 2010 "Jury
Instructions Cautioning Against Use of the
Internet and Social Networking."
4. Jury Assembly Room Poster from the Central
District of California.
5. Courtroom Poster from the State of California.

Special Subcommittee for Electronic Devices Recommendations
Approved by the Judicial Council February 25, 2010

Electronic Devices Policy

As a preliminary matter, the subcommittee recognizes the inherent authority of a judge presiding over a proceeding to control activities in his or her courtroom, including the use of electronic devices capable of wireless communications.

While keeping this principle in mind, the subcommittee does not endorse any policy that broadly restricts possession and use of electronic devices within a courthouse. Given the expanding wireless communications infrastructure and the extent to which the public now depends on this technology, the subcommittee does not believe a broad ban is desirable and may not be feasible.

The subcommittee recognizes there are legitimate concerns about the potential for misuse of this technology, including by persons summoned for juror service. To address these concerns, the subcommittee believes each district court should develop its own policy on use of electronic devices, and disseminate the policy widely to the bar, public and media. To assist the district courts in developing a policy, the subcommittee offers the following principles/practices for consideration.

General considerations:

1. Anyone should be allowed to bring a cell phone, a Blackberry or other personal digital assistant (PDA), a laptop computer or similar functioning device into the courthouse.
2. Except for courtrooms, persons may use such devices in public areas of the courthouse to make telephone calls or to transmit and receive data communications. For reasons of privacy, safety, and security, use of these devices to take photographs or for audio or video recording or transmission should be prohibited in the courthouse (exceptions for court staff, authorized vendors or for educational or ceremonial events).
3. In courtrooms, persons may use such devices to take notes and to transmit and receive data communications. Persons may not use these devices for telephone calls, photographs or audio or video recording or transmission. The judge may prohibit or further restrict use of such devices if they interfere with the administration of justice, the security of the proceeding or the integrity of the process.

The subcommittee makes no recommendations associated with allowing designated news media to use cameras in the courtroom. The Judicial Council of the Ninth Circuit recently addressed this issue by way of a Ninth Circuit Judicial Conference resolution, which was forwarded to the JCUS Committee on Court Administration and Case Management.

4. It should be anticipated that reporters, bloggers and other observers seated in the courtroom may use these devices to prepare and post online news accounts and commentary during the proceedings. Judges should instruct counsel to instruct witnesses who have been excluded or subject to exclusion agreements not to receive or view accounts of other witnesses' testimony prior to giving their testimony.
5. Every effort should be made to inform the public about where and how electronic devices may be used in the courthouse. Notices should be posted in the courthouse and on the court's web site.

For jurors:

Considering the difficulty the judiciary has in finding jurors, courts should not make the prospect of jury service even less attractive and more cumbersome by prohibiting use of wireless communications devices. The subcommittee suggests the following:

1. Persons summoned for jury service should be allowed to bring a cell phone, a Blackberry or other personal digital assistant (PDA), a laptop computer or similar functioning device into the jury assembly area, and to use these devices in the same manner as allowed in other public areas of the courthouse.
2. During voir dire, trial, and deliberations, a juror may use an electronic device only in accordance with the instructions delivered by the judge at the commencement of jury selection.
3. Judges should clearly admonish jurors not to use these devices to read news accounts of the trial, conduct research related to the case, ask legal questions of anyone, discuss the case with anyone, or express their views online via blogs, Twitter accounts, instant messaging systems, text messaging or other means. The admonition should include an explanation of why these

prohibitions are necessary, and should be delivered in addition to and not as a substitute for the Model Jury Instructions, 9th Cir. Crim. Jury Instr. 1.9 (2003) and 9th Cir. Civ. Jury Instr. 1.12 (2007).

4. Courts should be aware that jurors may desire to take notes on electronic devices. The subcommittee does not believe this will be feasible in most courthouses without upgraded infrastructure, additional staff support and technological safeguards for the electronic data. Until then, courts should not be obligated to provide jurors with anything more than the means to take notes in writing. Meanwhile, courts should monitor the development of methods by which jurors can utilize electronic devices for taking notes.
5. Courts should be cognizant of Ninth Circuit Model Jury Instruction 2.14 Evidence in Electronic Format, which calls for courts to provide a computer and associated equipment in the jury deliberation room for viewing of electronic exhibits. Courts also should consider permitting deliberating jurors to have electronic access to the final jury instructions in addition to providing each juror with a printed copy of the final instructions.

As to other use of electronic devices during the course of deliberations -- i.e., while the jurors are discussing among themselves what the verdict should be -- there is an additional concern that courts should take into account. Ongoing jury deliberations must remain not only confidential and private, but devoid of potentially chilling features. For a juror to take notes on an electronic device about what other jurors are saying would create such a risk of intimidation, and if the juror were allowed to remove his electronically-recorded notes from the jury room, it might also enhance the risk that the jury's deliberations would be widely disclosed at the end of the case.

Accordingly, at the very least courts should take appropriate steps to assure that if such electronic note-taking is not prohibited altogether, then whatever has been placed on an electronic device during the course of deliberations may not be removed from the jury room at any time and will be destroyed at the conclusion of the jurors' service (as the subcommittee understands is the current practice as to handwritten notes).

6. Every effort should be made to instruct properly and inform citizens summoned for jury duty, through summons, questionnaires or the court's website, as to where and how wireless communications devices may be used in the courthouse. This would include information on use in the jury

assembly room, while on trial breaks or lunch hours, and before and/or during deliberations.

Proposed Model Jury Instructions
The Use of Electronic Technology to Conduct Research on or Communicate about a Case
Prepared by the Judicial Conference Committee on
Court Administration and Case Management
December 2009

Before Trial:

You, as jurors, must decide this case based solely on the evidence presented here within the four walls of this courtroom. This means that during the trial you must not conduct any independent research about this case, the matters in the case, and the individuals or corporations involved in the case. In other words, you should not consult dictionaries or reference materials, search the internet, websites, blogs, or use any other electronic tools to obtain information about this case or to help you decide the case. Please do not try to find out information from any source outside the confines of this courtroom.

Until you retire to deliberate, you may not discuss this case with anyone, even your fellow jurors. After you retire to deliberate, you may begin discussing the case with your fellow jurors, but you cannot discuss the case with anyone else until you have returned a verdict and the case is at an end. I hope that for all of you this case is interesting and noteworthy. I know that many of you use cell phones, Blackberries, the internet and other tools of technology. You also must not talk to anyone about this case or use these tools to communicate electronically with anyone about the case. This includes your family and friends. You may not communicate with anyone about the case on your cell phone, through e-mail, your Blackberry, iPhone, text messaging, on Twitter, through any blog or website, through any internet chat room, or by way of any other social networking websites, including Facebook, My Space, LinkedIn, and YouTube.

At the Close of the Case:

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as the telephone, a cell phone, smart phone, iPhone, Blackberry or computer, the internet, any internet service, any text or instant messaging service, any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.



JURY INSTRUCTIONS CAUTIONING AGAINST
USE OF THE INTERNET AND SOCIAL NETWORKING

Approved by the Board of Regents
September 2010

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TABLE OF CONTENTS

Introductory Note.....	i
For Summons to Prospective Jurors	1
Instructions for Impaneled Jurors	2
Courtroom Conduct	4
Suggested Message for Impaneled Jurors to Send to Family and Friends	5
Suggested Statement of Compliance for Jurors to Sign.....	6

INTRODUCTORY NOTE

The use and misuse of technology in courtrooms and courthouses has raised a number of issues that pose new and difficult challenges to judges, lawyers, jurors and litigants. Across the country, trials have been affected by jurors who, either intentionally or unintentionally, have used technology to conduct unauthorized research or communicate about court proceedings. The American College of Trial Lawyers explored some of these issues at its Fall 2009 meeting in a program entitled “The Dark Side of Technology.” The College recognizes the importance of these issues, and seeks to develop “best practices” for handling the use of technology in the courtroom. These suggested instructions address many of the problems that have come to light in recent years.

The use of these or similar instructions is not without controversy. Despite a growing body of case law concerning the improper use of technology, some believe that the use of specific instructions such as those advocated by the ACTL will serve only to increase the number of violations by suggesting actions that would not otherwise have occurred to jurors. Others take the position that the use of specific instructions, accompanied by an explanation of why certain conduct must be prohibited during trials, will reduce at least the number of inadvertent violations, and may help to deter jurors who would otherwise not understand the potential harm that might flow from their seemingly innocuous actions. The College has concluded that the growing number of model instructions promulgated by the state and federal courts demonstrates the need to provide guidance to jurors, some of whom have shown that, without it, they are prone to lapse into use of the Internet and social networking, to the detriment of the fair administration of justice.¹

The suggested instructions are classified according to time frames or stages of court proceedings, and are tailored to address specific issues that might arise at those times. These materials also include a suggested message for impaneled jurors to send to family and friends explaining the juror’s situation, and a written agreement to be signed by each juror acknowledging the court’s instructions. It is suggested that the formality of a writing may serve to impress upon jurors the gravity of the court’s instructions.

¹ See U.S. Judicial Conference Committee on Court Administration and Case Management, Proposed Model Jury Instructions: The Use of Electronic Technology to Conduct Research on or Communicate about a Case (available at <http://www.uscourts.gov/uscourts/News/2010/docs/DIR10-018-Attachment.pdf>); U.S. Court of Appeals for the Third Circuit General Instruction for Civil Cases 1.2; U.S. Court of Appeals for the Third Circuit Criminal Instruction 1.03; U.S. Court of Appeals for the Eighth Circuit Preliminary Instructions 1.05, 1.08; U.S. Court of Appeals for the Ninth Circuit Model Civil Jury Instruction 1.12; U.S. Court of Appeals for the Ninth Circuit Model Criminal Jury Instruction 1.9; California Civil Jury Instruction 100; Connecticut Civil Jury Instruction 1.1-1; Connecticut Criminal Jury Instruction 1.2-10; Florida General Pool Instructions, Qualifications Instruction; Florida Civil Preliminary Instruction Given Before Voir Dire Begins 201.2; Florida Civil Preliminary Instruction Given After Voir Dire Ends and the Jury Is Sworn 202.2; Florida Civil Closing Instruction 700; Indiana Supreme Court, Cause No. 94S00-1003-MS-128, Rule 20 (Preliminary Instructions) and Rule 26 (Final Instructions); Michigan Court Rule 2.511; Missouri Supreme Court 2.01 Explanatory Instructions for All Cases at (1) Prohibition of Juror Research or Communication about This Case; New York Criminal Jury Instructions, Jury Admonitions in Preliminary Instructions at (4); New York Civil Pattern Jury Instructions 1:10, 1:11; Ohio State Bar Association Jury Instructions I(C)(2)-(3); South Carolina Supreme Court Order 2009-07-20-01 re Juror Use of Personal Communication Devices; Wisconsin Criminal Jury Instruction No. 50.

JURY INSTRUCTIONS CAUTIONING AGAINST USE OF THE INTERNET AND SOCIAL NETWORKING

For Summons to Prospective Jurors

The court understands that you may be unfamiliar with the court system, and that you may have many questions about what to expect from your jury service. In order to assist you in answering some common questions, we have [prepared the enclosed pamphlet] [created a special website], which you should feel free to review before you report to court. If you have questions that are not answered, you may bring them to court with you on the day of your service, or you may call [CONTACT PERSON].

However, in order to assist the court in providing the litigants with a fair trial, it is important that you refrain from conducting any research which might reveal any information about any case pending before the court, or any of the parties involved in any case. Therefore, you should avoid any attempts to learn which cases may be called for trial during your jury service, or anything about the parties, lawyers or issues involved in those cases. Even research on sites such as Google, Bing, Yahoo, Wikipedia, Facebook or blogs, which may seem completely harmless, may lead you to information which is incomplete, inaccurate, or otherwise inappropriate for your consideration as a prospective juror. The fair resolution of disputes in our system requires that jurors make decisions based on information presented by the parties at trial, rather than on information that has not been subjected to scrutiny for reliability and relevance.

REFERENCES:

Russo v. Takata Corp., 2009 WL 2963065 (S.D. 9/16/09).

Instructions for Impaneled Jurors

Now that you have been chosen as jurors for this trial, you are required to decide this case based solely on the evidence and the exhibits that you see and hear in this courtroom. At the end of the case, I will give you instructions about the law that you must apply, and you will be asked to use that law, together with the evidence you have heard, to reach a verdict. In order for your verdict to be fair, you must not be exposed to any other information about the case, the law, or any of the issues involved in this trial during the course of your jury duty. This is very important, and so I am taking the time to give you some very detailed explanations about what you should do and not do during your time as jurors.

First, you must not try to get information from any source other than what you see and hear in this courtroom. This means you may not speak to anyone, including your family or friends. You may not use any printed or electronic sources to get information about this case or the issues involved. This includes the internet, reference books or dictionaries, newspapers, magazines, television, radio, computers, Blackberries, iPhones, Smartphones, PDAs, or any other electronic device. You may not do any personal investigation, including visiting any of the places involved in this case, using Internet maps or Google Earth, talking to any possible witnesses, or creating your own demonstrations or reenactments of the events which are the subject of this case.

Second, you must not communicate with anyone about this case or your jury service, and you must not allow anyone to communicate with you. In particular, you may not communicate about the case via emails, text messages, tweets, blogs, chat rooms, comments or other postings, Facebook, MySpace, LinkedIn, or any other websites. This applies to communicating with your fellow jurors until I give you the case for deliberation, and it applies to communicating with everyone else including your family members, your employer, and the people involved in the trial, although you may notify your family and your employer that you have been seated as a juror in the case. But, if you are asked or approached in any way about your jury service or anything about this case, you must respond that you have been ordered not to discuss the matter and to report the contact to the court.

The court recognizes that these rules and restrictions may affect activities that you would consider to be normal and harmless, and I assure you that I am very much aware that I am asking you to refrain from activities that may be very common and very important in your daily lives. However, the law requires these restrictions to ensure the parties have a fair trial based on the evidence that each party has had an opportunity to address. If one or more of you were to get additional information from an outside source, that information might be inaccurate or incomplete, or for some other reason not applicable to this case, and the parties would not have a chance to explain or contradict that information because they wouldn't know about it. That's why it is so important that you base your verdict only on information you receive in this courtroom.

Some of you may have heard about trials where the jurors are not permitted to go home at night, or were sequestered for the entire length of the trial. For a variety of reasons, this is something we rarely do anymore. It is far more of an imposition on your lives than the court wishes to make. However, it was effective in keeping jurors away from information that might affect the fairness of the trial—that was the entire purpose.

You must not engage in any activity, or be exposed to any information, that might unfairly affect the outcome of this case. Any juror who violates these restrictions I have explained to you jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. As you can imagine, a mistrial is a tremendous expense and inconvenience to the parties, the court and the taxpayers. If any juror is exposed to any outside information, or has any difficulty whatsoever in following these instructions, please notify the court immediately. If any juror becomes aware that one of your fellow jurors has done something that violates these instructions, you are obligated to report that to the court as well. If anyone tries to contact you about the case, either directly or indirectly, or sends you any information about the case, please report this promptly as well.

These restrictions must remain in effect throughout this trial. Once the trial is over, you may resume your normal activities. At that point, you will be free to read or research anything you wish. You will be able to speak—or choose not to speak—about the trial to anyone you wish. You may write, or post, or tweet about the case if you choose to do so. The only limitation is that you must wait until after the verdict, when you have been discharged from your jury service.

REFERENCES:

U.S. v. Hernandez et al, No. 07-60027-CR (S.D. Fla. 2009): In a case from Florida, Federal prosecutors spent two years building their case against defendants accused of participating in an illegal internet pharmacy network. The judge, however, declared a mistrial when he discovered that 8 members of the jury had performed their own internet research on the case. These jurors Googled defendants' names and definitions of medical terms. Another juror discovered evidence that had been excluded from testimony. One alternate juror used the internet on his cell phone during breaks to conduct his own research.

U.S. v. Fumo, 2009 U.S. Dist. LEXIS 51581 (E.D. Penn. June 17, 2009): In a Federal corruption trial in Pennsylvania, a juror posted remarks about the trial and the jury deliberations to Facebook and Twitter. The juror even told readers that "a big announcement" was coming. Another Juror learned that the defendant had a prior overturned conviction. Regardless, the judge allowed trial to continue and the jury found the defendant guilty. A motion for a new trial was denied.

Courtroom Conduct

While court is in session, jurors, parties, witnesses, attorneys and spectators are not permitted to use electronic devices unless specifically authorized by the court. This includes sending or receiving phone calls, voice mails, text messages, tweets, or accessing the internet. No electronic device may be used to record, photograph or film any of the court proceedings.

When you arrive at the courthouse in the morning, you will be asked to give any electronic devices to the court officer. These devices will be returned to you at the end of the court day. You will be provided with a telephone number in the courtroom that your family may use to contact you in the event of an emergency. Any emergency message will be received by the court staff and communicated to you at the appropriate time.

REFERENCES:

Sky Development Inc. v. Vistaview Development Inc., 2007-32308-CA-01 (Fla. Miami-Dade County Ct. 2009): In a Florida circuit court case, a judge dismissed plaintiff's civil fraud case after finding out that a witness on the stand was texting his boss while the judge and attorneys were at sidebar. The texts were related to the content of the witnesses' testimony. Basically, the boss was telling the witness what to say during his testimony. The misconduct was brought to light when a courtroom spectator passed a note to the defense counsel informing him of the texts.

**Suggested Message for Impaneled
Jurors to Send to Family and Friends**

I am sending this message to you as instructed by Judge _____. I am now a sworn juror in a trial. I am under a court order not to read or discuss anything having to do with the trial, the parties or lawyers involved, or anything else concerning my jury service. Please do not send me any information about the case or my jury duty, and please do not ask me any questions or make any comments about the case or my jury duty. I will be following these rules for the length of the trial, which is expected to last approximately _____. I will send another note when my jury duty is completed and I am no required to follow the court order.

Suggested Statement of Compliance for Jurors to Sign

I agree that during the duration of the trial in _____, I will not conduct any independent research into any of the issues or parties involved in this trial. I will not communicate with anyone about the issues or parties in this trial, and I will not permit anyone to communicate with me. I further agree that I will report any violations of the court's instructions immediately.

JUROR No. _____

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PUBLIC NOTICE TO ALL PERSONS CALLED FOR JURY SERVICE

Once you are called into a courtroom as a potential juror on a case, you must not talk to anyone about the case, or about anyone who has anything to do with it. “The case” includes anything you see or hear in the courtroom, or on any case questionnaire you completed, anything said by the lawyers, the Judge, Court staff, and everyone else in the courtroom, such as spectators and members of the public or press.

This means you must not discuss the case with the other members of the jury panel, your spouse, your partner, your family, anyone in your household, your associates at work and your friends and neighbors – anyone at all. You may tell them that you have been called to jury duty, but nothing else until you are discharged by the Court.

Do not let anyone else talk to you about the case or about anyone who has anything to do with it. If someone does try to talk with you about it, you must report that to the Court, or any member of the Court staff, immediately.

Do not read any news stories or articles or listen to or watch any radio or television reports about the case, or about anyone who has anything to do with it. Do not look up any information about the case, or anyone who has anything to do with it, on the Internet, or do any research about it with any electronic device, including iPhones, BlackBerrys, Palm Pilots or other mobile web devices. Do not communicate by e-mail, text message, or blog, or by MySpace, Facebook, electronic bulletin board, chat room, message board or Twitter or Flickr with anyone, in any way, about the case.

Do not form any opinions about any of the issues in the case, or about what the verdict should be.

TERRY NAFISI
DISTRICT COURT EXECUTIVE

FOCUS ON THE COURTROOM

PLEASE REMEMBER THESE RULES:

As a juror, you play a critical role in ensuring that all parties receive a fair trial. It is essential that your decisions be based solely on the information you receive in the courtroom.

DO NOT TALK TO ANYONE OR LET ANYONE TALK TO YOU ABOUT THE CASE

This includes your family and friends. You must not discuss any aspect of the case with anyone until the trial concludes. Also, do not discuss the case with the other jurors until your deliberations begin.

DO NOT RECEIVE OR SEND ELECTRONIC COMMUNICATIONS ABOUT THE CASE

This includes texting, e-mailing, blogging, posting information on social network websites, or using any other electronic communications to discuss, or even mention, this case.

AVOID OUTSIDE INFORMATION FROM THE INTERNET OR OTHER SOURCES

Do not seek information about any aspect of the case, including searching on the Internet. Avoid news reports—broadcast, print, or Internet—relating to this case or issues in this case.



THANK YOU FOR YOUR SERVICE!