

100.31 ADMONITIONS TO JURORS AT RECESSES.¹

NOTE WELL: These instructions should be given before the first recess. For all subsequent recesses, use N.C.P.I.-Crim. 100.33.

Members of the jury, we will now take a *(state length)* recess. During this recess [and any other recess that we have while this trial is in progress], I instruct you that it is your duty to carefully observe the cautions I am now going to give you.

During the course of the trial you should not talk with each other about the case. You may only talk with each other about the case at the end of the trial when you go to the jury room to consider your verdict. It may be difficult for you to understand why you may not discuss this case among yourselves until it is finally submitted to you. It would be unfair to discuss the case among yourselves before you receive everything necessary to reach an informed decision. Until you are instructed to begin deliberations on your verdict, you should not form or express any opinion about the case.

You should not talk or have contact of any kind with any of the parties, attorneys or witnesses. You should not talk to anyone else or allow anyone else to talk with you or in your presence about the case. If anyone attempts to communicate with you about the case you must notify the bailiff immediately. If that person persists, simply walk away and notify the bailiff.

In this age of instant electronic communication and research, I want to emphasize that in addition to not speaking face-to-face with anyone about the case, you should not engage in any form of electronic communication about the trial, including but not limited to: Twitter, blogging, Facebook, text messaging, instant messaging, computer

gaming, and any other such means of electronic communication. Any such discussion could lead to a mistrial and would severely compromise the parties' right to a fair trial.

You should explain this rule prohibiting discussion of the case to your family and friends. (When the trial is over) (When your jury duty is completed), you will be released from this instruction. At that time, you may, but are not required to, discuss the case and your experiences as a juror.

You should avoid watching, reading or listening to any accounts of the trial that might come from any news media. That is, you should not read, listen, or watch anything about it that might be in the newspaper, or on the Internet, radio, or television. Media reports may be incomplete or inaccurate. You may only consider and decide this case upon the evidence received at the trial. If you acquire any information from an outside source, you must not report it to other jurors and you must disregard it in your deliberations. In addition, you should report the outside source of information to the bailiff or to the court at the first opportunity.

While the trial is going on, you must not go to (*state place where case arose*) or make any independent inquiry or investigation about this matter, including, but not limited to, any Internet or other kind of research. You are prohibited from performing your own experiments as well. This case involves the scene and events as it existed at the time, not as it exists today. Viewing the scene, pictures or other materials without the benefit of explanation in court is unfair to the parties who need you to decide this case solely upon the evidence that is admitted in this case.

If you base your verdict on anything other than what you learn in

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this courtroom, that could be grounds for a mistrial - which means that all of the work that you and your fellow jurors put into this trial will be wasted, and the lawyers, the parties, and a judge will have to do this all over again. If you communicate with others in violation of my orders, you could be held in contempt of court. That's why this is so important. After you have rendered your verdict, or have been otherwise discharged by me, you will be free to do any research you choose, or to share your experiences either directly or through your favorite electronic means.

You must keep all cell phones turned off when you are in the courtroom or the jury room. While the trial is in progress, you may only talk on a cell phone during a recess outside of the jury room.

If, during the trial, issues arise that would affect your ability to pay attention and sit as a fair and impartial juror, you may explain the matter to the bailiff who will inform me. At any time if you cannot hear a witness, an attorney, or me, please make that fact known immediately by raising your hand.

1. N.C. Gen. Stat. § 15A-1236 spells out the admonitions that must be given to the jury in a criminal case. These instructions should be given at the first recess after the jury is selected and at appropriate times thereafter. The instructions need not be given in full on each occasion.