

Jurors' Use of Social Media During Trials and Deliberations

*A Report to the Judicial Conference Committee on
Court Administration and Case Management*

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Executive Summary

At the request of the Committee on Court Administration and Case Management (CACM), the Federal Judicial Center conducted a survey of district courts to assess the frequency with which jurors use social media to communicate during trials and deliberations, and to identify effective strategies for curbing this behavior. The results, based on the responses of 508 responding judges, indicate that detected social media use by jurors is infrequent, and that most judges have taken steps to ensure jurors do not use social media in the courtroom. The most common strategy is incorporating social media use into jury instructions—either the model jury instructions provided by CACM or judges' own personal jury instructions. Also common are the practice of reminding jurors on a regular basis not to use social media to communicate during trial or deliberations, explaining the reasons behind the ban on social media, and confiscating electronic devices in the courtroom. Judges admit that it is difficult to police jurors. Only 30 judges reported instances of detected social media use by jurors during trials or deliberations.

Jurors' Use of Social Media During Trials and Deliberations

The Judicial Conference Committee on Court Administration and Case Management (CACM) asked the Federal Judicial Center to develop and administer a short survey of district court judges to assess the frequency with which jurors use social media to communicate about cases during trial and deliberation. The survey also sought to identify strategies judges have found to be effective and appropriate in curbing this behavior. This report presents the findings from the survey.

Study Methods and Response Rate

In October 2011, we sent an electronic questionnaire to all active and senior federal district judges. Two weeks later we sent an email reminder to judges who had not yet responded. Of the 952 judges who received the questionnaire, 508 responded, for an overall response rate of 53%. The respondents represent all 94 districts and have a mean of 14.6 years on the bench, ranging from a few months to 49 years of service as a federal judge. Appendix A provides a breakdown of responding judges by district.

The computerized questionnaire allowed respondents to be routed automatically around questions that were not relevant to their situations; thus, judges answered different questions depending on their experiences. Because some judges were asked questions that other judges were not (e.g., about previous experience with social media use), and because not all judges responded to every question presented to them, the number of respondents varies across the questions. A copy of the questionnaire can be found in Appendix B.

Please keep in mind that the data from the survey represent judges' reported experiences and perceptions of jurors' use of social media to communicate about proceedings in which they are involved. The data are not actual empirical measures of such behavior.

Incidence of Social Media Use by Jurors During Trials and Deliberations

The use of social media by jurors during trials and deliberations is not a common occurrence. Of the 508 judges who responded to the survey, only 30 judges (6%) reported any detected instances of jurors using social media during trial and deliberation, as seen in Table 1.

Table 1
Judges' Experience with Jurors Using Social Media to Communicate During a Trial or Deliberation (*n*=508)

Have Jurors Used Social Media During Trial or Deliberation?	Judges Selecting This Option	
	Number	Percentage
Yes	30	5.9%
No	478	94.1%

Of the 30 judges who have detected juror use of social media during trials and deliberations, the majority (28 judges, or 93%) have seen social media use by a juror in only one or two trials. The instances of social media use were more commonly reported during trials (23 judges reported at least one instance) than during deliberations (12 judges reported at least one instance), and were more commonly reported during criminal trials (22 judges with experience) than during civil trials (5 judges). Three judges encountered jurors using social media during both criminal and civil trials.

Ways in Which Jurors Use Social Media

The forms of detected social media use by jurors include Facebook (nine responses), and instant messaging services (seven responses). Twitter and internet chat rooms were reported by three judges. Table 2 contains a complete list of the social media forms judges encountered during trials and deliberations.

Table 2
Forms of Social Media Used During Trials and Deliberations ($n = 30$)^a

Social Media Forms	Judges Selecting This Option	
	Number	Percentage
Facebook	9	30.0%
Google +	9 ^b	30.0%
Instant messaging service (such as AIM)	7	23.3%
Twitter	3	10.0%
Internet chat room	3	10.0%
Internet bulletin board	1	3.3%
MySpace	1	3.3%

a Judges could select more than one item; thus, the number of media forms identified is greater than the number of respondents.

b The new social media service Google+ was included as an option; nine judges indicated that jurors used Google+ in their courtroom. Later comments in those responses strongly suggest that the judges were referring to the Internet search engine Google, and not the social networking site Google+.

Of the 17 judges who described the type of social media use jurors engaged in during trials and deliberations, three judges reported that a juror “friended” or attempted to “friend” one or more participants in the case, and three reported that a juror communicated or attempted to communicate directly with participants in the case (see Table 3). While three judges reported that jurors used social media to post information about a deliberation, none of the responding judges reported any instance in which a juror used social media to divulge confidential information about a case. One judge did report, however, that a juror revealed identifying information about other jurors. Judges could select “other” as an option for identifying additional ways in which jurors inappropriately used social media; the eleven who did listed case-related research (five judges), sharing general trial information such as the progress of the case (four judges), allowing another person to listen to live testimony (one judge) and conducting personal business (one judge).

Table 3
Ways in Which Jurors Used Social Media During a Trial or Deliberation
 (n = 17)^a

Juror Behavior	Judges Selecting This Option	
	Number	Percentage
“Friended” or attempted to “friend” participants in the case	3	17.6%
Communicated or attempted to communicate directly with participants in the case	3	17.6%
Revealed aspects of the deliberation process	3	17.6%
Revealed identifying information about other jurors	1	5.9%
Divulged confidential information about the case	0	0.0%
Other	11	64.7%

a Judges could select more than one item; thus, the number of juror behaviors selected is greater than the number of respondents.

In an open-ended follow-up question, judges could describe more fully the ways in which jurors have used social media during trials and deliberations. Overall, the 13 judges who responded to this question reported that jurors share both case-specific information and more generic information about jury service in general during the progress of the trial. Two judges reported jurors sharing non-confidential information about a case (one in a personal blog), and two judges reported jurors sharing information about their jury service in general. Three judges reported cell-phone use by jurors, but were unsure of the specifics of that use.

Though the incidence appears to be small, the judges’ responses reveal that at least some jurors have revealed case-specific information through social media. Two judges described situations in which a juror contacted a party with case-specific information. In one, the juror contacted the plaintiff’s former employee to reveal likely verdict; in the other, an “alternate juror contacted an attorney via Facebook during juror deliberations to provide feedback and [the] likely outcome.”

Identifying Jurors’ Social Media Use During Trials and Deliberations

Judges acknowledge that it is difficult to detect jurors’ inappropriate use of social media. Of the 28 judges who indicated how they learned of the incident, most said another juror had reported it (13 judges). Five judges said an attorney had reported it and five said a juror’s use of social media came up in post-trial motions or interviews. Three judges indicated that jurors’ social media use was reported by

court staff or a party. Only two judges reported observing jurors using electronic devices in the courtroom.

When judges have learned of jurors using social media in their courtrooms, reactions have differed. Nine judges (30% of the 30 judges with experience) removed the juror from the jury, and eight judges (27%) chose to caution the juror but allowed him or her to remain on the jury. Four judges declared a mistrial in cases in which jurors used social media during trials and deliberations.

Table 4
Actions Taken by Judges When Social Media Use by a Juror Was Discovered
(*n* = 30)

Action Taken	Judges Selecting This Option	
	Number	Percentage
Removed juror from jury	9	30.0%
Cautioned juror, but allowed him or her to remain on jury	8	26.7%
Declared a mistrial	4	13.3%
Held juror in contempt of court	1	3.3%
Fined juror	1	3.3%
Other	7	23.3%

A few judges reported that they investigated the nature of the communication. In a free response section of the questionnaire, three judges reported that they questioned the juror to ascertain possible damage, and another judge reported holding a hearing to determine the extent of the information that was inappropriately shared.

Strategies for Preventing Jurors' Use of Social Media During Trials and Deliberations

The great majority of judges who responded have taken preventive measures to ensure that jurors do not use social media in their courtrooms (478 judges), with only 6%, or 30 judges, indicating that they have not specifically addressed jurors' use of social media.

Use of Model Jury Instructions

In January 2010, the Committee on Court Administration and Case Management distributed model jury instructions regarding the use of electronic technologies to research or communicate about a case. Almost all of the judges who responded to this questionnaire know of the existence of those model jury instructions; only 32 of the 508 responding judges reported that they were not aware of the model jury instructions regarding social media use. Further, 60% (304 judges) have actually used the model jury instructions during a trial.

Most judges (82%, or 246 judges) who used the model jury instructions have done so in both civil and criminal trials, and almost two-thirds (65%, or 195 judges) have instructed the jury on the issue both before trial begins and again before deliberations, as shown in Tables 5 and 6.

Table 5
Judges' Use of Model Jury Instructions (*n* = 301)

Trial Type	Judges Selecting This Option	
	Number	Percentage
Civil trials only	20	6.6%
Criminal trials only	35	11.6%
Both civil and criminal trials	246	81.7%

Table 6
Timing of Model Jury Instructions (*n* = 302)

Point at Which Judges Used Model Jury Instruction	Judges Selecting This Option	
	Number	Percentage
Instructed the jury before the trial	67	22.2%
Instructed the jury before deliberations	6	1.9%
Instructed the jury both before the trial and before deliberations	195	64.6%
Other	34	11.3%

To the extent that the judges who responded could determine, the model jury instructions appear to successfully affect jurors' use of social media during a trial or deliberation. Over half the 303 judges who responded to this question (162 judges) indicated that jurors did not use social media in cases in which the model instructions were read (see Table 7). However, judges acknowledge that it is diffi-

cult to assess the success of the instructions: an additional 45% said they had no way to know whether jurors were using social media. Only four judges reported that jurors did use social media after being instructed; three of those instances were during deliberations.

Table 7
Success of Model Jury Instructions ($n = 303$)

Did Jurors Use Social Media After the Model Jury Instructions	Judges Selecting This Option	
	Number	Percentage
Yes	4	1.3%
No	162	53.5%
I have no way of knowing	137	45.2%

Of the 202 judges who have not used the model jury instructions, the majority used a different set of instructions (67%), and another 8% used a different strategy for preventing jurors from using social media, such as prohibiting electronic devices in the courtroom. Almost 10% of judges indicated they have not had a case that required the use of the model instructions. The remainder was unaware of the model jury instructions.

Forty-eight judges elaborated on why they did not use the model jury instructions. Three quarters of those judges (36 of the 48) indicated that they used a different set of instructions, either instructions provided by their circuit (8 judges), their court (1 judge), or instructions they had written themselves (27 judges). The others had either not presided over a trial since the introduction of the model instructions (9 judges) or found the model instructions to be too formal (3 judges).

Additional Measures Taken to Prevent Jurors from Using Social Media During Trials and Deliberations

Judges were asked to identify steps they had taken, in addition to or other than use of the model jury instructions, to ensure that jurors did not use social media to communicate about a case. Table 8 shows the responses.

Table 8
Measures Taken, in Addition to or Other Than Use of the Model Jury
Instructions, to Ensure Jurors Do Not Use Social Media to Communicate
During Trials and Deliberations (*n* = 508)^a

Preventive Measure	Judges Selecting This Option	
	Number	Percentage
Explained, in plain language, the reason behind the social media ban	317	62.4%
Instructed jurors at multiple points throughout the trial	271	53.3%
Used other jury instructions before trial	227	44.7%
Reminded jurors at voir dire to refrain from using social media while serving as a juror	199	39.2%
Used other jury instructions before deliberation	176	34.6%
Confiscated phones and other electronic devices during deliberation	147	28.9%
Confiscated phones and other electronic devices at the start of each day of trial	113	22.2%
Alerted the jury about the personal consequences	103	20.3%
I have not specifically addressed jurors' use of social media	30 ^b	5.9%
Required jurors to sign a statement of compliance, similar to one suggested by the American College of Trial Lawyers	3	0.6%
Required jurors to sign a written pledge agreeing to refrain from using social media while serving as a juror	3	0.6%

a. Judges could select more than one item; thus, the number of preventive measures identified is greater than the number of respondents.

b. Of the 30 judges who indicated they have not specifically addressed jurors' use of social media, two (or 6.6%) reported detected instances of social media use by jurors.

The most common measure used by judges, other than the model jury instructions, was to explain, in plain language, the reason behind the social media ban;

63% of the respondents to the survey (or 317 judges) use this approach. The next most common approach, used by 53% of the judges (or 271 judges), was to instruct jurors at multiple points throughout the trial (i.e., at the end of each day of testimony). Some judges use their own jury instructions and instruct the jury before trial (45%, or 227 judges) and before deliberations (35%, or 176 judges). Seven judges provided copies of their social media jury instructions when they submitted their questionnaires. A compilation of those instructions can be found in Appendices C-I.

An additional 39% of judges (199 judges) remind jurors at voir dire to refrain from using social media while serving as a juror, and 20% (103 judges) alert the jury about the personal consequences of inappropriate social media use (i.e., personal fines or being held in contempt of court). Approximately one quarter of the responding judges reported confiscating cell phones and other electronic devices, with 22% (113 judges) doing so at the start of each day of trial and 29% (147 judges) doing so during deliberations. Few judges ask jurors to sign formal statements of compliance; only 3 judges indicated they required jurors to sign a statement of compliance, and 3 indicated they required jurors to sign a written pledge.

Other strategies for preventing jurors' use of social media include administering a separate oath to jurors (5 judges) and posting reminders in jury assembly and deliberation rooms (3 judges).

As Table 9 shows, more than half of the responding judges (239, or 52%) reported their actions regarding social media to have been "very successful"; 44% said they did not know how successful their preventive measures have been.

Table 9
Success of Additional Preventive Measures for Social Media Use During Trials and Deliberations (*n* = 457)

Action Taken	Judges Selecting This Option	
	Number	Percentage
Very successful	239	52.3%
Somewhat successful	16	3.5%
Not at all successful	0	0.0%
I don't know	202	44.2%

In an open-ended follow-up question that asked judges to explain the success of their preventive measures, the majority of responding judges (79% of the 187 judges who answered the question) indicated that they had no way of knowing if jurors have violated the social media prohibition, but assume they had not. Twelve judges highlighted the importance of jurors understanding the reason behind the

prohibition, and ten judges stated that jurors take their jobs seriously and comply with the restrictions on social media use. Seven judges conduct post-verdict interviews with jurors to assess, among other things, the extent to which jurors comply with the social media instructions. Six judges reiterated the importance of instructing the jury at multiple points throughout the trial, and five stated that prohibiting electronic devices in the courtroom makes it more difficult for jurors to use social media.

Additional Suggestions Regarding Social Media Use During Trials and Deliberations

The final question of the survey asked judges to suggest any ways in which courts could prevent inappropriate use of social media by jurors during trial and deliberation. The most commonly cited suggestion was to give frequent reminders to jurors throughout the trial, cited by 33.5% of the 200 judges who answered this question. There were nearly as many suggestions—31% of the 200 responding judges—to give a detailed explanation of how refraining from social media use can promote a fair trial. Other suggestions included explaining the consequences of violations during trial, such as mistrial and wasted time and money (mentioned by 15% of judges); using plain English instructions (mentioned by 12% of the responding judges); and prohibiting cell phones and other electronic devices in the courtroom (mentioned by 12% of responding judges). Twenty-one judges (11% of those who responded) specifically mentioned that the model jury instructions provided by CACM were a good idea.

Summary

The detected use of social media by jurors during trials and deliberations is not common, but it does occur. Thirty of the 508 responding judges reported instances in which jurors were detected using social media during trial or deliberation, most often in criminal cases. This social media use most often took the form of posts about the progress of the case or the juror's service in general. There were several instances of jurors attempting to contact participants in the case via social media. When social media use was detected, it was most likely to be reported by a fellow juror.

Although the use of social media is a relatively new phenomenon, judges have responded in timely fashion to address its use in the courtroom. The vast majority of judges (94%) say they have taken at least some form of precautionary steps to ensure that jurors do not use social media in their courtrooms. The most common strategy is incorporating social media use into their jury instructions, either by using the model jury instructions provided by CACM or using their own personal jury instructions. Also common are the practice of reminding jurors on a regular

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basis not to use social media to communicate during trial or deliberations, explaining the reasons behind the ban on social media, and confiscating electronic devices in the courtroom. Judges admit that it is difficult to police jurors, and therefore use of social media is difficult to detect. Only 30 judges reported instances of detected social media use by jurors during trials or deliberations.

**Appendix A:
Responding Judges by District**

District	Frequency	Percent	Valid Percent	Cumulative Percent
AK	3	.6	.6	.6
ALM	4	.8	.8	1.4
ALN	3	.6	.6	2.0
ALS	3	.6	.6	2.6
ARE	5	1.0	1.0	3.5
ARW	1	.2	.2	3.7
AZ	10	2.0	2.0	5.7
CAC	10	2.0	2.0	7.7
CAE	8	1.6	1.6	9.3
CAN	8	1.6	1.6	10.8
CAS	10	2.0	2.0	12.8
CO	7	1.4	1.4	14.2
CT	8	1.6	1.6	15.7
DC	6	1.2	1.2	16.9
DE	2	.4	.4	17.3
FLM	14	2.8	2.8	20.1
FLN	5	1.0	1.0	21.1
FLS	11	2.2	2.2	23.2
GAM	3	.6	.6	23.8
GAN	9	1.8	1.8	25.6
GAS	4	.8	.8	26.4
GU	1	.2	.2	26.6
HI	4	.8	.8	27.4
IAN	3	.6	.6	28.0
IAS	3	.6	.6	28.5
ID	1	.2	.2	28.7
ILC	3	.6	.6	29.3
ILN	14	2.8	2.8	32.1
ILS	2	.4	.4	32.5
INN	5	1.0	1.0	33.5
INS	5	1.0	1.0	34.4
KS	7	1.4	1.4	35.8
KYE	6	1.2	1.2	37.0
KYW	2	.4	.4	37.4
LAE	6	1.2	1.2	38.6
LAM	2	.4	.4	39.0
LAW	7	1.4	1.4	40.4
MA	5	1.0	1.0	41.3

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MD	9	1.8	1.8	43.1
ME	3	.6	.6	43.7
MIE	7	1.4	1.4	45.1
MIW	6	1.2	1.2	46.3
MN	6	1.2	1.2	47.4
MOE	7	1.4	1.4	48.8
MOW	4	.8	.8	49.6
MSN	2	.4	.4	50.0
MSS	7	1.4	1.4	51.4
MT	3	.6	.6	52.0
NCE	5	1.0	1.0	53.0
NCM	4	.8	.8	53.7
NCW	3	.6	.6	54.3
ND	3	.6	.6	54.9
NE	5	1.0	1.0	55.9
NH	3	.6	.6	56.5
NJ	8	1.6	1.6	58.1
NM	5	1.0	1.0	59.1
NMI	1	.2	.2	59.3
NV	5	1.0	1.0	60.2
NYE	15	3.0	3.0	63.2
NYN	6	1.2	1.2	64.4
NYS	18	3.5	3.5	67.9
NYW	2	.4	.4	68.3
OHN	11	2.2	2.2	70.5
OHS	4	.8	.8	71.3
OKE	2	.4	.4	71.7
OKN	2	.4	.4	72.0
OKW	5	1.0	1.0	73.0
OR	6	1.2	1.2	74.2
PAE	8	1.6	1.6	75.8
PAM	7	1.4	1.4	77.2
PAW	8	1.6	1.6	78.7
PR	3	.6	.6	79.3
RI	3	.6	.6	79.9
SC	9	1.8	1.8	81.7
SD	4	.8	.8	82.5
TNE	3	.6	.6	83.1
TNM	3	.6	.6	83.7
TNW	4	.8	.8	84.4
TXE	5	1.0	1.0	85.4
TXN	6	1.2	1.2	86.6
TXS	10	2.0	2.0	88.6

**Appendix A:
Responding Judges by District**

District	Frequency	Percent	Valid Percent	Cumulative Percent
AK	3	.6	.6	.6
ALM	4	.8	.8	1.4
ALN	3	.6	.6	2.0
ALS	3	.6	.6	2.6
ARE	5	1.0	1.0	3.5
ARW	1	.2	.2	3.7
AZ	10	2.0	2.0	5.7
CAC	10	2.0	2.0	7.7
CAE	8	1.6	1.6	9.3
CAN	8	1.6	1.6	10.8
CAS	10	2.0	2.0	12.8
CO	7	1.4	1.4	14.2
CT	8	1.6	1.6	15.7
DC	6	1.2	1.2	16.9
DE	2	.4	.4	17.3
FLM	14	2.8	2.8	20.1
FLN	5	1.0	1.0	21.1
FLS	11	2.2	2.2	23.2
GAM	3	.6	.6	23.8
GAN	9	1.8	1.8	25.6
GAS	4	.8	.8	26.4
GU	1	.2	.2	26.6
HI	4	.8	.8	27.4
IAN	3	.6	.6	28.0
IAS	3	.6	.6	28.5
ID	1	.2	.2	28.7
ILC	3	.6	.6	29.3
ILN	14	2.8	2.8	32.1
ILS	2	.4	.4	32.5
INN	5	1.0	1.0	33.5
INS	5	1.0	1.0	34.4
KS	7	1.4	1.4	35.8
KYE	6	1.2	1.2	37.0
KYW	2	.4	.4	37.4
LAE	6	1.2	1.2	38.6
LAM	2	.4	.4	39.0
LAW	7	1.4	1.4	40.4
MA	5	1.0	1.0	41.3

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MD	9	1.8	1.8	43.1
ME	3	.6	.6	43.7
MIE	7	1.4	1.4	45.1
MIW	6	1.2	1.2	46.3
MN	6	1.2	1.2	47.4
MOE	7	1.4	1.4	48.8
MOW	4	.8	.8	49.6
MSN	2	.4	.4	50.0
MSS	7	1.4	1.4	51.4
MT	3	.6	.6	52.0
NCE	5	1.0	1.0	53.0
NCM	4	.8	.8	53.7
NCW	3	.6	.6	54.3
ND	3	.6	.6	54.9
NE	5	1.0	1.0	55.9
NH	3	.6	.6	56.5
NJ	8	1.6	1.6	58.1
NM	5	1.0	1.0	59.1
NMI	1	.2	.2	59.3
NV	5	1.0	1.0	60.2
NYE	15	3.0	3.0	63.2
NYN	6	1.2	1.2	64.4
NYS	18	3.5	3.5	67.9
NYW	2	.4	.4	68.3
OHN	11	2.2	2.2	70.5
OHS	4	.8	.8	71.3
OKE	2	.4	.4	71.7
OKN	2	.4	.4	72.0
OKW	5	1.0	1.0	73.0
OR	6	1.2	1.2	74.2
PAE	8	1.6	1.6	75.8
PAM	7	1.4	1.4	77.2
PAW	8	1.6	1.6	78.7
PR	3	.6	.6	79.3
RI	3	.6	.6	79.9
SC	9	1.8	1.8	81.7
SD	4	.8	.8	82.5
TNE	3	.6	.6	83.1
TNM	3	.6	.6	83.7
TNW	4	.8	.8	84.4
TXE	5	1.0	1.0	85.4
TXN	6	1.2	1.2	86.6
TXS	10	2.0	2.0	88.6

**Appendix A:
Responding Judges by District**

District	Frequency	Percent	Valid Percent	Cumulative Percent
AK	3	.6	.6	.6
ALM	4	.8	.8	1.4
ALN	3	.6	.6	2.0
ALS	3	.6	.6	2.6
ARE	5	1.0	1.0	3.5
ARW	1	.2	.2	3.7
AZ	10	2.0	2.0	5.7
CAC	10	2.0	2.0	7.7
CAE	8	1.6	1.6	9.3
CAN	8	1.6	1.6	10.8
CAS	10	2.0	2.0	12.8
CO	7	1.4	1.4	14.2
CT	8	1.6	1.6	15.7
DC	6	1.2	1.2	16.9
DE	2	.4	.4	17.3
FLM	14	2.8	2.8	20.1
FLN	5	1.0	1.0	21.1
FLS	11	2.2	2.2	23.2
GAM	3	.6	.6	23.8
GAN	9	1.8	1.8	25.6
GAS	4	.8	.8	26.4
GU	1	.2	.2	26.6
HI	4	.8	.8	27.4
IAN	3	.6	.6	28.0
IAS	3	.6	.6	28.5
ID	1	.2	.2	28.7
ILC	3	.6	.6	29.3
ILN	14	2.8	2.8	32.1
ILS	2	.4	.4	32.5
INN	5	1.0	1.0	33.5
INS	5	1.0	1.0	34.4
KS	7	1.4	1.4	35.8
KYE	6	1.2	1.2	37.0
KYW	2	.4	.4	37.4
LAE	6	1.2	1.2	38.6
LAM	2	.4	.4	39.0
LAW	7	1.4	1.4	40.4
MA	5	1.0	1.0	41.3

Jurors' Use of Social Media During Trials and Deliberations

MD	9	1.8	1.8	43.1
ME	3	.6	.6	43.7
MIE	7	1.4	1.4	45.1
MIW	6	1.2	1.2	46.3
MN	6	1.2	1.2	47.4
MOE	7	1.4	1.4	48.8
MOW	4	.8	.8	49.6
MSN	2	.4	.4	50.0
MSS	7	1.4	1.4	51.4
MT	3	.6	.6	52.0
NCE	5	1.0	1.0	53.0
NCM	4	.8	.8	53.7
NCW	3	.6	.6	54.3
ND	3	.6	.6	54.9
NE	5	1.0	1.0	55.9
NH	3	.6	.6	56.5
NJ	8	1.6	1.6	58.1
NM	5	1.0	1.0	59.1
NMI	1	.2	.2	59.3
NV	5	1.0	1.0	60.2
NYE	15	3.0	3.0	63.2
NYN	6	1.2	1.2	64.4
NYS	18	3.5	3.5	67.9
NYW	2	.4	.4	68.3
OHN	11	2.2	2.2	70.5
OHS	4	.8	.8	71.3
OKE	2	.4	.4	71.7
OKN	2	.4	.4	72.0
OKW	5	1.0	1.0	73.0
OR	6	1.2	1.2	74.2
PAE	8	1.6	1.6	75.8
PAM	7	1.4	1.4	77.2
PAW	8	1.6	1.6	78.7
PR	3	.6	.6	79.3
RI	3	.6	.6	79.9
SC	9	1.8	1.8	81.7
SD	4	.8	.8	82.5
TNE	3	.6	.6	83.1
TNM	3	.6	.6	83.7
TNW	4	.8	.8	84.4
TXE	5	1.0	1.0	85.4
TXN	6	1.2	1.2	86.6
TXS	10	2.0	2.0	88.6

Jurors' Use of Social Media During Trials and Deliberations

TXW	9	1.8	1.8	90.4
UT	3	.6	.6	90.9
VAE	9	1.8	1.8	92.7
VAW	7	1.4	1.4	94.1
VI	1	.2	.2	94.3
VT	1	.2	.2	94.5
WAE	7	1.4	1.4	95.9
WAW	7	1.4	1.4	97.2
WIE	5	1.0	1.0	98.2
WIW	1	.2	.2	98.4
WVN	2	.4	.4	98.8
WVS	4	.8	.8	99.6
WY	2	.4	.4	100.0
Total	508	100.0	100.0	

Appendix B: Survey Document

Jurors' Use of Social Media

This survey seeks (1) to assess the frequency with which jurors are using social media to communicate about cases during trial and deliberation, and (2) to identify strategies judges have found to be effective and appropriate in curbing this behavior. For the purposes of this survey, social media is defined as electronic communications, usually internet-based, through which users create online communities to share ideas, personal messages and other content. It includes, but is not limited to, social networking sites such as Facebook, Twitter, LinkedIn and YouTube, as well as platforms such as blogs, chatrooms and online bulletin boards.

For the purposes of this survey, please focus on jurors' use of social media to communicate information about cases. At this point, we are not considering instances of jurors' use of the internet to conduct independent research about the case.

A. Previous Experience with Social Media

1) Have you experienced any instances of jurors using social media to communicate during a trial or deliberations?

- Yes
- No

2) In how many trials have you encountered jurors using social media to communicate in your courtroom?

- 1-2
- 3-5
- 6-10
- 11-20
- More than 20

3) Approximately how many of those instances were during a trial?

4) Approximately how many of those instances were during deliberations?

5) In what types of cases did you encounter jurors using social media to communicate?

- Criminal trials
- Civil trials
- Both criminal and civil trials

6) Which of the following forms of social media have jurors used to communicate trial or deliberation information about your courtroom or about cases in which you have presided? Please check all that apply.

- Twitter
- Facebook
- MySpace
- LinkedIn
- Google+
- You Tube
- Instant messaging service (such as AIM)
- Juror's personal blog
- Internet bulletin board
- Internet chat room
- Other (please specify)

If you selected other, please specify

7) How did you discover that a juror or jurors was using social media to communicate about a case?

8) To the best of your knowledge, have jurors in any of your cases used social media to do any of the following? Please check all that apply.

- "Friended" or attempted to "friend" participants in the case (e.g., witnesses, parties, attorneys, judges)
- Communicated or attempted to communicate directly with participants in the case (e.g., witnesses, parties, attorneys, judges)
- Divulged confidential information about the case
- Revealed aspects of the deliberation process
- Revealed identifying information about other jurors
- Other (please specify)

If you selected other, please specify

9) Please use the space below to describe more fully the way(s) in which jurors have used social media to communicate in your courtroom.

B. Use of Model Jury Instructions

In January 2010, the Committee on Court Administration and Court Management distributed to all district courts model jury instructions regarding the use of electronic technologies to research or communicate about a case. These instructions, which the Committee suggested be given at the beginning of a trial and before jury deliberations, are aimed at helping jurors better understand and adhere to the scope of the prohibition against using social media during a trial.

The text of the model jury instructions is below:

Before Trial:

During the course of 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 any other electronic means. It is important that you decide this case based solely on the evidence presented in the courtroom. Please do not try to find out information from any other sources.

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. In other words, you cannot talk to anyone on the phone, correspond with anyone, or electronically communicate with anyone about this case. You can only discuss the case in the jury room with your fellow jurors during deliberations.

10) Have you used the model jury instructions during a trial?

- Yes
- No

11) Why have you not used the model jury instructions during a trial?

- I didn't have a case that required them.
- I used a different set of instructions.
- I used a different strategy for preventing jurors from using social media to communicate.
- I wasn't aware of the model jury instructions.
- Other (please specify)

If you selected other, please specify

12) At what point during the trial did you use the model jury instructions?

- I instructed the jury before the trial.
- I instructed the jury before deliberations.
- I instructed the jury both before the trial and before deliberations.
- Other (please specify)

If you selected other, please specify

13) In what types of cases have you used the model jury instructions?

- Civil trials
- Criminal trials
- Both civil and criminal trials

14) To the best of your knowledge, in the cases in which you used the model jury instructions, did any jurors use social media to communicate about the trial, either during the trial or during deliberations?

- Yes
- No
- I have no way of knowing

15) At what point during the case did it occur? Please check all that apply.

- During the trial
- During deliberations
- Other (please specify)

If you selected other, please specify

16) What type of case was it? Please check all that apply.

- Civil
- Criminal

17) Please describe the nature of the communication(s).

C. Additional Measures Taken to Prevent Jurors from Using Social Media

18) When you have found jurors using social media during trial or deliberation in your courtroom, what action(s) have you taken? Please check all that apply.

- Removed juror from jury
- Cautioned juror, but allowed him or her to remain on the jury
- Fined juror
- Held juror in contempt of court
- Declared a mistrial
- Other (please specify)

If you selected other, please specify

19) What steps have you taken to ensure that jurors do not use social media to communicate about the case during trial or deliberation? Please check all that apply.

- I have not specifically addressed jurors' use of social media.
- Used other jury instructions (i.e., not the model instructions) before trial
- Used other jury instruction (i.e., not the model instructions) before deliberation
- Instructed jurors at multiple points throughout the trial (i.e., at the end of each day of testimony)
- Confiscated phones and other electronic devices at the start of each day of trial

- Confiscated phones and other electronic devices during deliberation
- Explained, in plain language, the reason behind the social media ban
- Alerted the jury about the personal consequences (i.e., personal fines, contempt of court)
- Reminded jurors at voir dire to refrain from using social media while serving as a juror
- Required jurors to sign a statement of compliance, similar to one suggested by the American College of Trial Lawyers
- Required jurors to sign a written pledge agreeing to refrain from using social media while serving as a juror
- Other (please specify)

If you selected other, please specify

20) If you use or have used a different set of instructions during a trial, please post a link to those instructions below, or email the text of those instructions to socialmediasurvey@fjc.gov.

21) How successful have these actions been?

- Very successful
- Somewhat successful
- Not at all successful
- I don't know

22) Please explain.

23) What suggestions do you have for steps judges or courts can take to prevent inappropriate use of social media by jurors? Please be as detailed as possible.

D. Demographic Information

24) What is your home district?

25) How long have you served as a federal judge?

26) If you have any additional comments about jurors' use of social media in general, please provide them here.

Thank you for completing the survey. Please click the **Submit Survey** button below to submit your responses. If you have any questions about the survey, please contact Meghan Dunn at mdunn@fjc.gov or 805-226-7497.

**Appendix C:
Jury Instructions from Judge Joseph Bataillon (D. Neb.)**

These instructions are given at the beginning of the trial. The attached set is for criminal cases. The same instructions concerning outside contact and research are given in civil cases.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8: ____ CR ____
v.)	
)	
_____)	INITIAL
)	JURY INSTRUCTIONS
Defendant.)	
_____)	

INSTRUCTION NO. 8
CONDUCT OF THE JURY

To insure fairness, you, as jurors, must obey the following rules:

1. Do not talk among yourselves about this case or about anyone involved with this case until the end of the case when you go to the jury room to decide on your verdict.
2. Do not talk with anyone else about this case or about anyone involved with it until the trial has ended and you have been discharged as jurors.
3. During the course of this trial and when you are outside the courtroom, do not listen to or allow anyone to tell you anything about this case. Do not allow anyone to talk to you about anyone involved with this case until the trial has ended and I have accepted your verdict. If anyone tries to talk to you about this case during the trial, please promptly report the matter to me.
4. During the trial do not talk with or speak to any of the parties, lawyers, or witnesses involved in this case. Do not even pass the time of day with any of them. You must not only do justice in this case, but you must also give the appearance of doing justice. For instance, if a person from one side of the lawsuit sees you talking to a person from the other side, even if it is on a matter unconnected with this trial or simply to pass the time of day, such contact might arouse unwarranted suspicion about your fairness. If a lawyer, party, or witness does not speak to you when you pass in the hall, ride the elevator, or encounter each other elsewhere while this trial is taking place, remember that court rules prohibit those persons from talking or visiting with you as well.
5. You must decide this case on the basis of evidence presented in the courtroom. Therefore, do not read any news stories or articles about the case or about anyone involved with this case. Do not listen to any radio or television reports about the case or about anyone involved with it. Until the trial is over, avoid reading any newspapers and avoid listening to any TV or radio newscasts. There may be news reports of this case, and if there are, you might find yourself inadvertently reading or listening to something before you realize what you are doing.
6. Do not do any research or make any investigation on your own concerning this case. Do not use or refer to any dictionary, reference, or law book, or the Internet, concerning any aspect of this case, including any evidence introduced. Do not visit the scene of any incident mentioned in this case.

7. Do not form any opinion regarding any fact or issue in the case until you have received the entire evidence, have heard arguments of counsel, have been instructed as to the law of the case, and have retired to the jury room. Do not make up your mind during the trial about what the verdict should be. Keep an open mind until after you have gone to the jury room to decide the case and have discussed the evidence with the other jurors.

8. Do not be influenced by sympathy or prejudice. Do not indulge in any speculation, guess, or conjecture. Do not make any inferences unless they are supported by the evidence.

INSTRUCTION NO. 9

OUTSIDE COMMUNICATIONS AND RESEARCH

You, as jurors, must decide this case based solely on the evidence presented here within the four walls of this courtroom because the parties must have an opportunity to respond to any information you consider in deciding this case. 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, chat rooms, social networking websites including Facebook, My Space, LinkedIn or YouTube, or use your cell phones, iPhones, text messaging, Twitter or any other electronic tools or devices to obtain information about this case or to help you decide the case.

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. However, until you have returned a verdict and the case is at an end, you must not talk to anyone or communicate with anyone about the case by any means, electronic or otherwise. This includes communications with your family and friends. Such communication would compromise your fairness as jurors and may require your removal from the case and a retrial of this matter at considerable expense to the parties.

**Appendix D:
Jury Instructions from Judge Mark Bennett (N.D. Iowa)**

These instructions are read at the start of trial.

INSTRUCTION NO. 16 – CONDUCT OF JURORS DURING TRIAL

You must decide this case solely on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict

Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over

When you are outside the courtroom, do not let anyone ask you about or tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.

During the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day—so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you, either.

You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can tell them when you must be in court and warn them not to ask you or talk to you about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, Blackberry, PDA, computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, blog, or website such as Facebook, MySpace, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict.

Do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation about this case, the law, or the people involved on your own.

Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony.

Do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate.

Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations.

Do not decide the case based on “implicit biases.” As we discussed in jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes, that is, “implicit biases,” that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.

If, at any time during the trial, you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer (CSO), who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining two Instructions at the end of the evidence.

**Appendix E:
Jury Instructions from Judge Anna J. Brown (D. Or.)**

Because you must base your verdict only on the evidence and on these instructions, I remind you that you must not be exposed to any other information about the case or to the issues it involves. Except for discussing the case with your fellow jurors during your deliberations: Do not communicate with anyone in any way and do not let anyone else communicate with you in any way about the merits of the case or anything to do with it. This includes discussing the case in person, in writing, by phone or electronic means, via email, text messaging, or any Internet chat room, blog, website or other feature. This applies to communicating with your family members, your employer, the media or press, and the people involved in the trial. 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. Do not read, watch, or listen to any news or media accounts or commentary about the case or anything to do with it; do not do any research, such as consulting dictionaries, searching the Internet or using other reference materials; and do not make any investigation or in any other way try to learn about the case on your own. The law requires these restrictions to ensure the parties have a fair trial based on the same evidence that each party has had an opportunity to address. A juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. If any juror is exposed to any outside information, please notify the court immediately.

**Appendix F:
Jury Instructions for Judge Leonard Davis (E.D. Tex.)**

**Post-Impaneling Instruction, Pre-Preliminary Instruction on
Outside Research and Social Networking Sites**

You have now been sworn as the jury to try this case. Until this trial is over, do not discuss this case with anyone and do not permit anyone to discuss this case in your presence. This includes your family and friends. Do not discuss the case even with the other jurors until all of the jurors are in the jury room actually deliberating at the end of the case. If anyone should attempt to discuss the case or to approach you concerning the case, you should inform the Court immediately.

Hold yourself completely apart from the people involved in the case: the parties, the witnesses, the attorneys, and persons associated with them. This also means that if you have a social networking Internet site or tool, like Facebook, MySpace, or Twitter, you should not discuss or even mention the case at all on those sites. Do not post updates about what is going on in the case. Do not send or receive text messages about this case. It is important not only that you be fair and impartial, but that you also appear to be fair and impartial.

Do not make any independent investigation of any fact or matter in this case. Do not learn anything about the case from any other source. Do not watch TV or read the newspaper about this case. Do not use the Internet or Google to find out more information about the case, the parties, or the attorneys in this case. You are to be guided solely by what you see and hear in this trial.

The trial of this case will start on _____, and I will give you more specific instructions about the case at that time. You may call this number to check status of this trial: 800-998-9056.

Appendix G: Jury Instructions for Judge Dale Fischer (C.D. Cal.)

Before we do anything else, there are some very important rules I need to tell you about that apply to your conduct outside of the courtroom and the courthouse. They described some of these in the jury assembly room, but they are so important I need to repeat them. I don't want to sound mean or threatening, but what I am going to tell you is not what I am asking you to do, it is what I am ordering you to do. My orders have the same effect as laws. If you violate those orders, it is the same as violating the law.

For some reason, jurors seem to have difficulty with these, so please listen closely. First, keep an open mind throughout the trial, and do not decide what the verdict should be until you and your fellow jurors have completed your deliberations at the end of the case.

Second, do not talk to anyone about this case, or about anyone who has anything to do with it until you go to the jury room to deliberate and decide your verdict. "This case" includes anything you see or hear in the courtroom, such as the testimony of witnesses, the physical evidence, and anything said by the lawyers, the court, court staff, and anyone else in the courtroom, such as spectators. This means you are ordered not to have any conversation at all with the attorneys, the parties, or any witness called in this proceeding. When you see any of these people in the hall or anywhere else, you are not to greet them, don't ask for directions to anywhere. Don't ask how much longer the trial will last. There should be no conversation of any kind. Of course, you probably won't know who the witnesses are, so it is best not to talk to anyone who isn't wearing a juror's badge. If you are in the hall or the restroom and you hear someone talking about the case, please ask them not to talk about it in your presence—or simply leave. The parties and attorneys will not be offended if you ignore them. Please don't be offended if they ignore you. They are also under orders not to speak to you.

If any of these people try to speak to you, tell them you will not speak to them. Then immediately inform the bailiff or Ms. Plato of this conduct.

Don't be concerned, however, if you see witnesses talking to each other, or to the attorneys. That is permissible. Stay far enough away from them that you won't overhear any of their conversation.

Do not talk with anyone outside the jury about this case or about anyone who has anything to do with it until the trial has ended, and you have been discharged as a

juror. “Anyone else” includes your spouse, your partner, your family, anyone at home, anyone at work, and your friends and neighbors—anyone at all. You may tell them that you are a juror on a case, but say nothing else about it until you are discharged by the court.

Third, do not let anyone 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, please report that to the court, or the courtroom deputy clerk, immediately.

Fourth, you must not independently investigate the facts or the law or consider or discuss facts as to which there is no evidence. This means, for example, that you may not visit or view any place that you hear described in this case. Do not search for information on any of the parties, witnesses, attorneys, or law firms, or me, at least until the case is over; if you look for these people, you may accidentally find information about the case.

Do not conduct experiments. 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 Google or otherwise research on the Internet or look up any information about the case or anyone who has anything to do with it, or do any research with any electronic device, including droids, iPhones, iPads, 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 tweet with anyone, in any way, about this case.

You can't ask anyone for information relating to the case, even if you don't say that it has anything to do with the case, or that you are on a jury. You can't even look up a word in the dictionary if you don't know, or don't all agree, on the meaning of the word. If you have any questions at all, send them in writing to me and I will try to help you answer them.

These and my other orders are not just my preferences or requests. They are serious and important—and they are the law. The law requires these restrictions to insure that the parties have a fair trial with a fair and unbiased jury—a jury that will base its decision only on the evidence presented in this courtroom.

It is common for the media, whether television, radio, newspaper, or online source, to report about lawsuits, parties to lawsuits, witnesses in lawsuits, and their lawyers. This media coverage may be accurate or it may be inaccurate. For example, the media often refer to me as a man. The coverage may be complete and

thorough, or it may be incomplete, and not thorough. The coverage may portray both sides of the story fairly, or it may be one-sided.

If you do your own research, look on the internet, or view media coverage relating to this case, you will have no way of knowing whether what you are reading is accurate, complete, or fair.

In addition, the parties and the court will have no way of knowing what you have seen or read, and they will be deprived of the opportunity to confront and explain whatever is said in those accounts. And you will have more information—possibly inaccurate information - than your fellow jurors. That is why your information about this case must be limited to what is presented in this courtroom. That way, all the jurors will see and hear the same evidence, and the parties will have an opportunity to address that evidence, engage in cross-examination, and talk to you about the evidence in their opening statements and closing arguments. And you can't fix the problem by sharing with your fellow jurors information that you shouldn't have in the first place. A juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result. A mistrial means that no matter how far we are into the case, we have to start over. It means that the jurors, the court staff, the attorneys and the parties will have wasted their time. You will also have wasted the tax dollars—your tax dollars—that it takes to provide this trial. If you hear any other juror talking about having done research, seen news coverage, or learned information about the case outside of the courtroom—or if you do so yourself, you must inform my courtroom deputy clerk immediately, so that we can address this situation.

I can't emphasize these rules enough. Every judge in every court across the country advises juries of these same rules and yet more and more often jurors are ignoring them. Sometimes it's just curiosity. Sometimes it's because jurors believe they need to know more about the case than the lawyers have told them in order to do their jobs as jurors. Maybe it's just because the Internet is fun and easy to use—at least for some people. But there is absolutely no excuse or justification for violating these rules, so don't even try to think of one. If you have any question at all about whether something you are about to do is OK—just don't do it.

**Appendix H:
Jury Instructions from Judge William T. Moore, Jr. (S.D. Ga.)**

Let me add that during the course of the trial you will receive all the evidence you properly may consider to decide this case. In our system of justice, we require that any decision reached by the jury in a case is based on only the evidence that has been presented to them by the parties. The reason for this, as I am sure you can understand, is that any information you might obtain from outside the courtroom could be misleading, inaccurate, incomplete, or inadmissible. Relying on this information would be unfair because the parties would not have an opportunity to refute the evidence, explain its applicability to this case, correct any errors or inaccuracies, or argue that the rules of evidence prohibit its consideration by the jury. For these reasons, any external research or communication concerning this case is strictly prohibited until the court has accepted and entered whatever verdict you may ultimately reach.

Do not engage in any outside reading of this case. Do not attempt to visit any places mentioned in the case. Now that the trial has begun, you must not read about it in the newspapers, or watch or listen to television or radio reports of what is happening here. Do not in any other way try to learn about the case, its subject matter, the parties, or the law outside of this courtroom. The reason for these rules, as I am certain you will understand, is that your decision in this case must be made solely on the evidence presented at the trial. Curiosity may be human nature, but you are duty-bound to follow these restrictions, as failure to do so jeopardizes the fairness and integrity of this proceeding.

I want to impress upon you that this strict prohibition against any outside research or communication applies not only to printed reference materials, such as dictionaries or encyclopedias, but also to the internet and all other electronic mediums. For example, you cannot use Google or any other Internet search engine to learn anything about this trial. Also, you cannot use Wikipedia to look up definitions or legal concepts that are present in this case. You cannot blog or tweet about anything relating to this case or to your service as a juror. You may not use Twitter, Facebook, MySpace, LinkedIn, YouTube, Google +, or any other social networking service to send or receive messages about this case or to “friend” anyone involved in this case. Until the conclusion of this trial, the court prohibits you from conducting any online research or engaging in any communication with outsiders concerning this case. Most, if not all, of you use cell phones, Blackberries, iPhones, or other smart phones or computers to communicate with others. During this trial, you cannot communicate to anyone any information about this case, your opinions or views about it, or the individuals participating in it by any

method or means. Even posting one-way status messages about this trial or your impressions as a juror would be a violation of your oath.

If you are in any way unsure whether you are about to engage in an activity prohibited by these instructions, you should not engage in that activity and immediately seek clarification from the court by passing a note to a court security officer for my review. But, you should always err on the side of caution. Also, you should immediately notify the court if you feel that you are unable to abide by these prohibitions, or if you become aware that any of your fellow jurors may have violated or may be intending to violate these restrictions.

Any failure to adhere to these prohibitions will result in an unfair trial because, as I stated before, the accuracy or admissibility of the information that you view or receive on line has not been tested by the parties. In this sense, a juror's improper use of outside technology threatens the very nature of our adversary system. Indeed, it is a very real possibility that a juror's improper use of outside technology could force the court to start the trial all over, wasting yours, this court's, and the parties' valuable time and resources. Furthermore, the court will treat any use of outside information as a violation of your oath as a juror. This court will not hesitate to hold an offending juror in contempt of court or sequester the entire jury for the remainder of the trial.

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(4) Until you have rendered a verdict in this case, you are not to read any articles in the newspapers, if any were to appear, or to listen to any radio or television accounts. You may not visit any of the places mentioned during trial. You are not to seek any additional information on the subject matter of this case, the laws in any way related to this case, or any other factual or legal matter that has any connection to this case through the use of the internet, websites, blogs, or any other electronic resource that you can access either through a computer or your cellular telephone. Also, you are not to communicate with anyone concerning this case in any way by using your cell phones, Blackberries, iPhones, or other smart phones or computers, or through the use of Twitter, Facebook, MySpace, LinkedIn, YouTube, Google +, or any other social networking service. It would be a serious violation of your oath to do so.

**Appendix I:
Jury Instruction from Judge Dan Polster (N.D. Ohio)**

Delivered before the trial begins and again before deliberations.

Admonition

First, it is my duty to give you what is called “The Admonition.” This is a standing court order that applies throughout the trial. I will try to remind you of The Admonition at every recess, but if I forget to remind you, it still applies.

Ladies and gentlemen, you have been selected as jurors in this case. We have taken the time to seat a neutral jury so this case can be decided based just on what goes on in the courtroom, and not on outside influences. You are required to decide this case based solely on the evidence that is presented to you in this courtroom. It is my role as the judge to determine what evidence is admissible and what is not admissible. It would be a violation of your duties, and unfair to the parties, if you should obtain other information about the case, which might be information that is not admissible as evidence.

You must carefully listen to all the evidence, and evaluate all of it. Do not reach any conclusions until you have heard all the evidence, the arguments of the attorneys, and the judge’s instructions of law. Otherwise, you will have an incomplete picture of the case.

Do not discuss this case among yourselves or with anyone else. The reason for this is you might be given information or an opinion that could alter the way in which you view the evidence or the instructions or even how the case should come out. Such an opinion or conclusion would be based on an incomplete or inaccurate view of the evidence and therefore would be clearly unfair.

In addition, you absolutely must not try to get information from any other source. The ban on sources outside the courtroom applies to information from all sources such as family, friends, the Internet, reference books, newspapers, magazines, television, radio, a Blackberry, iPhone, Droid or other smart phone, iPad and any other electronic device. This ban on outside information also includes any personal investigation, including visiting the site of the incident giving rise to this case, looking into news accounts, talking to possible witnesses, reenacting the allegations in the Complaint, or any other act that would otherwise affect the fairness and impartiality that you must have as juror.

The effort to exclude misleading, outside-influences information also puts a limit on getting legal information from television entertainment. This would apply to popular TV shows such as *Law and Order*, *Boston Legal*, *Judge Judy*, older shows like *L.A. Law*, *Perry Mason*, or *Matlock*, and any other fictional show dealing with the legal system. In addition, this would apply to shows such as *CSI* and *NCIS*, which present the use of scientific procedures to resolve criminal investigations. These and other similar shows may leave you with an improper preconceived idea about the legal system. As far as this case is concerned, you are not prohibited from watching such shows. However, there are many reasons why you cannot rely on TV legal programs, including the fact that these shows:

- (1) are not subject to the rules of evidence and legal safeguards that apply in this courtroom, and
- (2) are works of fiction that present unrealistic situations for dramatic effect.

While they are entertaining, TV legal dramas condense, distort, or even ignore many procedures that take place in real cases and real courtrooms. No matter how convincing they try to be, these shows simply cannot depict the reality of an actual trial or investigation. You must put aside anything you think you know about the legal system that you saw on TV.

Finally, you must not have contact with anyone about this case, other than the judge and court employees. This includes sending or receiving email, Twitter, text messages or similar updates, using blogs and chat rooms, and the use of Facebook, MySpace, LinkedIn, and other social media sites of any kind regarding this case or any aspect of your jury service during the trial. If anyone tries to contact you about the case, directly or indirectly, do not allow that person to have contact with you. If any person persists in contacting you or speaking with you, that could be jury tampering, which is a very serious crime. If anyone contacts you in this manner, report this to my courtroom deputy as quickly as possible.

You should know that if this Admonition is violated, there could be a mistrial. A mistrial means that the case is stopped before it is finished and must be retried at a later date. This can lead to a great deal of expense for the parties and for taxpayers, namely you and your neighbors. No one wants to see money, especially tax dollars, wasted. If a mistrial were to be declared based on a violation of this Admonition, the juror responsible could be required to pay the cost of the first trial, and could also be punished for contempt of court.