**6.29 Continuing Deliberations After Juror is Discharged and Not Replaced**

[One] [some] of your fellow jurors [has] [have] been excused from service and will not participate further in your deliberations. You should not speculate about the reason the [juror is] [jurors are] no longer present.

You should continue your deliberations with the remaining jurors. Do not consider the opinions of the excused [juror] [jurors] as you continue deliberating. All the previous instructions given to you, including the unanimity requirement for a verdict, remain in effect.

**Comment**

The trial court, upon written stipulation by the parties, may permit a jury of fewer than 12 persons to return a verdict, or by order of the court for good cause, a jury of 11 persons may return a verdict. Fed. R. Crim. P. 23(b); *United States v. Brown*, 784 F.3d 1301, 1304-07 (9th Cir. 2015). It may also substitute an alternate juror. *See Brown*, 784 F.3d at 1304; *see also* Instruction 6.30 (Resumption of Deliberations After Alternate Juror is Added).

*Revised Sept. 2019*