**6.30 Resumption of Deliberations After Alternate Juror is Added**

[An alternate juror has] [Alternate jurors have] been substituted for the excused [juror] [jurors]. You should not speculate about the reason for the substitution.

You must start your deliberations anew. This means you should disregard entirely any deliberations taking place before the alternate [juror was] [jurors were] substituted and consider freshly the evidence as if the previous deliberations had never occurred.

Although starting over may seem frustrating, please do not let it discourage you. It is important that each juror have a full and fair opportunity to explore his or her views and respond to the views of others so that you may come to a unanimous verdict. All the previous instructions given to you, including the unanimity requirement for a verdict, remain in effect.

**Comment**

The court must ensure that the alternate did not discuss the case with anyone after the original jury retired, and it must instruct the reconstituted jury to begin its deliberations “anew.” Fed. R. Crim. P. 24(c); *United States v. Brown*, 784 F.3d 1301, 1302 (9th Cir. 2015).

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. *See* Fed. R. Crim. P. 23(b); *Brown*, 784 F.3d at 1304-07; Instruction 6.29 (Continuing Deliberations After Juror is Discharged and Not Replaced). The court may also substitute an alternate juror. *See* Fed. R. Crim. P. 24(c).

*Revised Sept. 2019*