

Summary of Note Taking Discussions at the SCAC

By: Judge Tracy Christopher

February 20-21, 2009

April 4, 2008 meeting, pages 16848-16906

We had a lengthy discussion of note taking at this meeting. There was a minority that did not want the jurors to be able to take their notes back into the jury room during deliberations. The minority's concerns were dealt with by suggesting certain language be added as to the use of notes during deliberations. We voted 29 to 4 to add a mandatory instruction in 226a to inform the jurors that they had the right to take notes during trial. We voted 30 to 0 that we should have language about note taking, both before the trial began, and in the jury charge itself. We had a shorter discussion on whether jurors should be allowed to take their notes home if they wanted to. We voted 21 to 13 to allow jurors to take their notes home if they wanted to do so.

September 5, 2008 meeting, pages 17338-17365

We had a shorter but spirited discussion on the use of notes in the jury room during deliberations. By a vote of 17 to 3, we voted to increase the restrictions on the use of notes in the jury room. By a vote of 13 to 6, we voted to include the restriction that a juror may not show or read his notes to other jurors during deliberations.

November 21, 2008, pages 17380-17443

In connection with jury innovations, there were zero votes to re-open discussions on whether or not the jurors should be allowed to take their notes into the jury room for deliberations. We did have a long discussion on what to do with juror notes after the trial. We had 24 votes in favor of letting jurors take their notes home if they wanted to, but any remaining notes left at the courthouse would be destroyed. This vote was contingent on amending TRE 606 to make juror notes inadmissible evidence in connection with any inquiry into the validity of a jury verdict. We had 8 votes in favor of destroying all juror notes.

November 22, 2008, pages 17656-17696

The committee approved the revisions below for note taking instructions. We briefly discussed adding some language to the paragraph when the judge dismisses the jurors about taking notes home and lawyers asking for juror notes and decided to not revise that paragraph, although no vote was taken.

Revisions of 226a-to be read before trial begins (and in written instructions handed to the jury)

During the trial, if taking notes will help focus your attention on the evidence, you may take notes. If taking notes will distract your attention from the evidence, you should not

take notes. Your notes are for your own personal use. Do not show or read your notes to anyone, including other jurors.

Revisions of 226a-to be read and written in the jury charge

Any notes you have taken are for your own personal use and may be taken back into the jury room and consulted by you during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely upon your independent recollection of the evidence and not be influenced by the fact that another juror has taken notes