1.01 EMPANELING THE JURY – AN INSTRUCTION TO PRECEDE THE OATH

You have been chosen as a juror in this case. [[One] [Two] of you [has] [have] been selected as [an] alternate[s].] Before you take the juror's oath, I must impress upon you the seriousness and importance of being a member of a jury. Trial by jury is a fundamental right in Alaska. Each case is to be decided by citizens who are fairly selected, who act without bias, and who render a fair verdict based upon the evidence presented at trial.

You took one oath before you were questioned about your qualifications to be a juror. Now you will take a second oath. By this oath you swear or affirm that you will decide the case on the evidence presented and according to the law as explained by me.

When you take the oath you accept serious and important obligations. The jury system depends on the honesty and the integrity of each individual juror. By this oath, you affirm that the answers you have given concerning your qualifications to sit on this jury were complete and correct. You affirm that you are truly impartial in this case. You affirm that you have told the parties and me everything we should know about your ability to sit as a juror in this case.

If you believe you should not take this oath or that there is something else that the parties or I should know, please raise your hand. You can give your information to me and to the parties privately.

I will now administer the oath. [The oath will now be administered.]

Use Note

Some judges designate alternates at the end of jury selection prior to the presentation of evidence. Other judges do not advise jurors who the alternates are until just before the case goes to the jurors. The second sentence of this instruction may need to be modified based on which method the judge uses.

Permitting any juror concerned about taking the oath to communicate privately with the judge and the parties works to protect the privacy of the concerned juror and avoids prejudicing other jurors.

If a juror comes forward with information that results in that juror’s removal, another juror should be selected and the alternates should be in place before the oath is administered. It may be wise at this point to repeat the third paragraph of the instruction before administering the oath.

Comment

In many courts the oath to the jurors has become a pro forma matter. Some judges ask the clerk or bailiff to administer the oath. This marks a departure from a time when the oath played a more important role in courtroom proceedings. If the oath is carefully administered to prospective jurors and alternates it may serve to remind them of the importance of the task assigned to them. Even if every biased juror will not come forward and admit a preconception some may do so as a result of taking an oath administered by a judge who evinces concern about the oath.