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DEADLOCKED JURY¹

The verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree thereto. Your verdict must be unanimous.

While you do not have an obligation to decide this case, you do have the obligation to make a conscientious effort to do so. It is your duty, as jurors, to consult with one another and to deliberate with a view towards reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. Listen to the opinions of your fellow jurors and do not hesitate to reexamine your own views if, after listening to them, you are convinced that your views are wrong; but do not abandon your conscientious opinions if you are convinced that they are right. But do not surrender your honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

You are not partisans. You are judges -- judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

¹ This instruction is based on the model deadlock instructions proposed by the American Bar Association, ABA Standards for Criminal Justice, Trial by Jury Standard 15-4.4(a), at 15-134 (2nd ed. 1986) and New Hampshire Model Criminal Jury Instructions 1.7 (Murphy & Pope, N). After repeated cautions, *State v. Blake*, 113 N.H. 115, 124 (1973) *State v. Niquette*, 122 N.H. 870, 874 (1982), The New Hampshire Court has specifically ordered the trial courts to use the ABA model instruction. *State v. Jordon*, 130 N.H. 48, 49(1987). The Supreme Court has subsequently declined, however, to reverse a trial court that used a modified ABA model instruction when modification was not deemed coercive *State v. Silva*, 142 N.H. 269, 274 (1997).