

COMBINED JURY AND BENCH TRIAL ¹

There are (specify the number) defendants in this case and we are thus combining (specify the number) trials in one.

(Specify the number) of them, namely defendant(s) (name of defendant(s)), is/are proceeding to trial by jury and thus you, the jury, will render a verdict [in (his/her) case] [for each defendant].

(Specify the number) of the defendants, namely (name of defendant(s)), has/have opted to proceed with a trial by a judge and thus I will render a verdict [in (his/her) case] [for each defendant].

You must not speculate as to the reasons why a defendant is, or is not, proceeding to a trial by jury. Nor may you draw any inference, positive or negative, as to the merits of the case(s) that you are considering from the fact that the defendant is proceeding to trial by jury.

As to (the/each) defendant who is proceeding to trial by jury your obligation is to evaluate the evidence as it applies, or fails to apply, to (that/each) defendant [separately].

[Add if multiple defendants being tried by the jury:

As to each defendant proceeding to trial by jury, you must consider each instruction on the law as referring to each defendant separately. And you must return a separate verdict as to each defendant on each of the charges that defendant is facing. Those verdicts may be, but need not be, the same.]

Some proceedings which relate only to the defendant(s) whose case(s) is/are being tried by the Court, may, in order to be fair, be conducted outside of your presence. You must not speculate as to the content of any such proceedings.

My role at the trial as to all defendants, the role of any judge, is to help assure a fair and orderly trial in accordance with our law. I do that by presiding over the trial, deciding questions of law that arise between/among the parties, and explaining to you, the jury, what the law is that you must accept and follow. Those rulings and instructions are based strictly on the law and are in no way intended to reflect any opinion on the facts of any defendant's case. So, nothing I say, or how I say it, and no ruling I make on the law, is intended to be, nor should it be, considered by you, as an expression of an opinion on the facts of the case or of whether a defendant

is guilty or not guilty. You must not therefore attempt to discern or be influenced by what you may believe nonetheless to be my opinion on the facts. You must decide for yourselves whether the defendant(s) you are asked to consider is/are guilty or not guilty. At the same time, your verdict will have no bearing on the verdict that I must render. Each defendant on trial is entitled to separate consideration and a verdict in accord with the evidence applicable to that defendant; thus, the verdicts in these cases may or may not be the same.

Again, your obligation is to fairly evaluate the evidence before you as it relates to (the/each of the) defendant(s) who is proceeding to trial by jury and ultimately to decide whether or not the People have met their burden of proof as to each of the offenses with which (the/each of the) defendant(s) is charged.

¹ See *People v. Warren*, 20 N.Y.3d 393 (2013).