

jurors and whether that extraneous information affected the deliberating jurors to such an extent that they failed to keep an open mind and render a verdict based solely on the evidence;

4) This colorable allegation of juror misconduct implicates the Defendant's Sixth Amendment Right to a trial by an impartial jury and his right to a trial that comports with fundamental notions of due process;

5) Because a non-frivolous suggestion that the jury was bias or tainted has been made, this Court must undertake an adequate inquiry into whether the alleged tainted incident occurred and whether it was prejudicial; and

6) Because the prejudicial impact of the alternate juror's alleged knowledge of Trenkler cannot be fairly assessed without a judicial inquiry into what extrinsic information was injected into the deliberative process, the Defendant respectfully reserves his right to supplement this Motion for a New Trial after the Court conducts its own inquiry and makes its own findings relative to the very serious and troubling allegations made by Donna Shea.

WHEREFORE, the Defendant respectfully requests that this Court conduct an inquiry into 1) whether Ramona Walsh, the alternate juror failed to disclose during the voir dire that she knew Trenkler; 2) whether she communicated that fact (and possibly other information) to the deliberating jurors; and 3) whether that extraneous information affected the deliberating

jurors, such as they failed to keep an open mind and render a verdict based solely on the evidence. After the Court issues its own findings, and makes its own findings of actual prejudice, the Defendant respectfully moves that this Court order a new trial.

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By his Attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by hand/mail on 11/19/96

