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## Opinion and Answer to Question "Is It Permissible for an Attorney, After the Trial of a Case in Which the Attorney Represented One of the Parties, to Discuss the Case with One or More of the Jurors Who Served During the Trial of the Case?"

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## **ETHICS AND PROFESSIONAL RESPONSIBILITY**

### **OPINION AND ANSWER TO QUESTION "IS IT PERMISSIBLE FOR AN ATTORNEY, AFTER THE TRIAL OF A CASE IN WHICH THE ATTORNEY REPRESENTED ONE OF THE PARTIES, TO DISCUSS THE CASE WITH ONE OR MORE OF THE JURORS WHO SERVED DURING THE TRIAL OF THE CASE?"**

ADOPTED APRIL 30, 1958

Canon 23 of the Canons of Professional Ethics governs this question; Canon 23 is as follows:

#### **CANON 23. ATTITUDE TOWARD JURY**

All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

Opinion 109 of the American Bar Association Committee on Professional Ethics and Grievances is to the effect that a lawyer may not, after the verdict, interview jurymen as to what went on in the jury room and salient points in arriving at their conclusions. On the other hand, the New York City Bar Association considers that it is not improper for an attorney to interview jurors after the jury has been discharged (New York City Bar Opinion No. B-174).

It is the opinion of this Committee that an attorney should not seek out any juror, after trial of a case, for the purpose of discussing the case with such juror; however, if in the normal course of events such a juror initiates a discussion of such a case with an attorney, Canon 23 does not require the attorney to be discourteous or impolite to such a juror, and casual discussion of the case with such juror would be permissible

but should be limited as narrowly, and terminated by the attorney, as promptly as politeness permits.

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