

1 **13-2005. Jury sole judges of the facts.**

2 You are the sole judges of all disputed questions of fact in this case. It is your duty to
3 determine the true facts from the evidence produced here in open court. Your verdict should not
4 be based on speculation, guess, or conjecture.

5 At the start of the trial, I instructed you about implicit or unconscious bias and the need to
6 ensure that unconscious bias does not affect the way you view the parties, the witnesses, or the
7 evidence. Now that you are about to begin your final deliberations, that caution bears repeating.
8 You must not let bias influence your decision. You must not be biased in favor of or against any
9 party or witness because of their gender, gender identity, race, religion, ethnicity, sexual
10 orientation, age, education, national origin, social or economic status, disability, [_____
11 (insert other form of bias),] or any other impermissible form of bias. In forming your views about
12 the parties, witnesses, and evidence, focus on individual facts, avoid jumping to conclusions based
13 on stereotypes, and think about the reasons for your views to make sure they are not based on
14 feelings you may have about people of a particular type, class, or background.

15 Your verdict must be based on the evidence presented. You are to apply the law, as stated
16 in these instructions, to the facts as you find them and, in this way, decide the case. Neither
17 sympathy nor prejudice should influence your verdict.

18 USE NOTES

19 This instruction shall be given in all cases and is intended to preclude other instructions of
20 similar import. If the parties agree, the bracketed blank space at the end of the second paragraph
21 may be used to name a particular bias of concern or at issue in the case.

22 [As amended by Supreme Court Order No. S-1-RCR-2023-00041, effective for all cases pending
23 or filed on or after December 31, 2025.]

1 **Committee commentary.** — It is a basic precept of New Mexico law that, if requested,
2 the jury must be informed that they are the sole judges of the facts. This provision, [~~prior to~~] before
3 the adoption of mandatory jury instructions in New Mexico, was long a part of the rules of
4 procedure in New Mexico. The latter [~~portion~~] part of the instruction purposely repeats cautions
5 contained in other instructions. The second and third paragraphs of this instruction are intended to
6 recall to the jurors' minds the court's instructions about unconscious or implicit bias given earlier
7 in the case.

8 ~~[This instruction was cited by the New Mexico Supreme Court in the case of *Jewell v.*~~
9 ~~*Seidenberg*, 82 N.M. 120, 477 P.2d 296, 49 A.L.R.3d 121 (1970) and by the court of appeals in~~
10 ~~the case of *Anderson v. Welsh*, 86 N.M. 767, 527 P.2d 1079 (Ct. App. 1974).~~

11 ~~This instruction was cited and quoted in part in the specially concurring opinion of Judge~~
12 ~~Sutin in the case of *Higgins v. Hermes*, 89 N.M. 379, 552 P.2d 1227 (Ct. App.), cert. denied, 90~~
13 ~~N.M. 8, 558 P.2d 620 (1976).]~~

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