

13-110. Conduct of jurors.

Your job is to find and determine the facts in this case, which you must do solely ~~[upon]~~
on the evidence received in court. There are ~~[a number of]~~ important rules ~~[governing your~~
~~conduct]~~ you must follow during the trial.

First, you may discuss the evidence during the trial^[;] but only among yourselves and only
in the jury room when all of you are present. During the recesses and adjournments, while ~~[this~~
~~case]~~ the trial is in progress, do not discuss the case with anyone other than yourselves as a group.

The kinds of things you may discuss include the ~~[witnesses, their]~~ witness testimony^[;] and
exhibits. Be careful, however, not to make up your minds₂ or to try to convince others about the
final outcome of the case₂ until you have heard everything—all the evidence, the final instructions
of law, and the attorneys' closing arguments. It would be unfair to the parties if you attempt to
decide the outcome of the case before you begin final deliberations.

Second, it is for you to decide whether the witnesses know what they are talking about and
whether they are being truthful. You may give the testimony of any witness or other evidence
whatever weight you believe it merits. You may take into account the witness's ability and
opportunity to observe, any interest, bias₂ or prejudice that the witness may have, and the
reasonableness of the testimony considered in light of all the evidence in the case.

Third, to minimize the risk of accidentally overhearing something that is not evidence in
this case, please continue to wear the jurors' badges while in and around the courthouse. If
someone happens to discuss the case in your presence, report that fact at once to a member of the
court's staff.

Fourth, though it is natural to visit with people you meet, please do not talk with any of the
attorneys, parties, witnesses₂ or spectators, either in or out of the courtroom. If you meet in the

1 hallways or elevators, there is nothing wrong with saying “good morning” or “good afternoon.”[₅]
2 but your conversation should end there. If the attorneys, parties,₂ and witnesses do not greet you
3 outside of court, or avoid riding in the same elevator with you, they are not being rude. They are
4 just carefully observing this rule.

5 Fifth, do not consider anything you may have read or heard about the case outside the
6 courtroom. During the trial and your deliberations, avoid news accounts of the trial, whether on
7 radio, television, in the newspaper, on the internet,₂ or elsewhere. If you happen to see or hear any
8 news account of the trial, please report that fact to a member of the court’s staff.

9 Sixth, do not attempt any research, tests, experiments, visits to any locations involved in
10 this case, or other investigation[~~including on the internet~~]. It would be difficult or impossible to
11 duplicate conditions shown by the evidence; therefore, your results would not be reliable. [~~Such~~]
12 That conduct also runs contrary to the rule that your verdict must be based solely [~~upon~~] on the
13 evidence presented to you. Nonetheless, in your deliberations, you need not ignore your
14 backgrounds, including professional, vocational, and educational experience.

15 Seventh, because you are only to consider the evidence presented [~~in~~]during the trial [~~in~~]of
16 this case, you may not refer to print or electronic resources before rendering your verdict. This
17 means that you may not use [your] a computer, [~~or phone~~]telephone, smartphone, or any other
18 electronic device [at any time to do any]to email, text, comment on, or research [on]any issue that
19 may [arising in the trial or jury deliberations, or to comment on what is happening in the trial or
20 jury deliberations. Specifically, you may not text message or go to or use any social networking
21 sites, including, but not limited to,]arise during these proceedings. You may not use internet
22 dictionaries, Google, Safari, Yahoo, Wikipedia, or any other search engine to research any issue,
23 the parties, witnesses, or attorneys. [Facebook, MySpace, LinkedIn, Twitter, and/or YouTube.

1 ~~Don't use internet dictionaries, Wikipedia, or any other source of information].~~ This prohibition
2 includes the use of blogs and social networking sites, such as Facebook, LinkedIn, Twitter,
3 YouTube, Snapchat, and any and all others. Again, [You] you may rely only on the evidence
4 presented in the trial ~~[in]~~of this case.

5 Last, there are at least two sides to every lawsuit. It is important that you keep an open
6 mind and not decide any part of the case until the entire case has been completed and submitted to
7 you. Your special responsibility as jurors demands that throughout this trial you exercise your
8 judgment impartially and without regard to any sympathy, ~~[bias or prejudice]~~prejudice, or any
9 actual or implicit bias of which you are or may become aware.

10 ~~[These rules apply at all times during the trial]~~These restrictions apply at all times during
11 the trial, recesses, deliberations, and when you are away from the courthouse—[24] twenty-four
12 (24) hours a day, [7] seven (7) days a week—until you return a verdict in open court and are
13 discharged by me.

14 [Approved, effective March 1, 2005; as amended by Supreme Court Order No. 08-8300-012,
15 effective June 13, 2008; by Supreme Court Order No. 11-8300-003, effective March 21, 2011; as
16 amended by Supreme Court Order No. 22-8300-029, effective for all cases filed or pending on or
17 after December 31, 2022.]

18 **Committee commentary.** — “Juror misconduct . . . includes activity by members of the jury
19 which is inconsistent with the instructions by the court.” State v. Mann, 2002-NMSC-001, ¶ 22,
20 131 N.M. 459, 39 P.3d 124. [State v. Sena, 105 N.M. 686, 688, 736 P.2d 491, 493 (1987).] Juror
21 misconduct also includes members of the jury making an unauthorized visit to the scene or
22 referring to material not in evidence and against the instructions of the court. See State v. Melton,
23 1984-NMCA-115, ¶¶ 4-17, 102 N.M. 120, [122-24,] 692 P.2d 45[; 47-49 (Ct. App. 1984)].

1 However, jurors are allowed to “take into consideration their knowledge and impressions founded
2 upon experience in their everyday walks of life.” [~~State v.~~] *Mann*, 2002-NMSC-001, ¶ 32 [~~131~~
3 ~~N.M. 459, 469, 39 P.3d 124, 134~~].
4 [As amended by Supreme Court Order No. 22-8300-029, effective for all cases filed or pending
5 on or after December 31, 2022.]