

1.180 (Civ) RULES GOVERNING JUROR CONDUCT DURING TRIAL

This case is very important to all the parties.

The parties are entitled to your full attention throughout the trial and to your fair and impartial consideration of the case.

To ensure fairness, you as jurors *must* follow certain rules that apply in every jury trial:

1. **Keep an open mind throughout the trial.**
2. **Do not discuss the case with *anyone* during the trial and do not give out information or allow yourself to receive information about the parties, witnesses, lawyers, or any issue about the case, outside the courtroom.**
3. **Do not read about the case or listen to stories about the case in newspapers, magazines, radio or TV shows, or Internet sites.**
4. **Do not visit the locations discussed in the case and do not conduct any independent research about the case.**
5. **Be fair to all the parties.**
6. **Turn off your cell phones.**

If you disobey these rules, you will directly violate the oath you have taken as a juror.

If you break any of these rules, I may need to order an entirely new trial before another jury that would cost the parties and the court system a lot of time and money, as well as cause embarrassment to you. [It could result in *[insert contempt, costs, fines deemed appropriate by the court].*]

So, please listen carefully as I explain the rules again to you in more detail.

1. ***Keep an open mind throughout the trial. Do not make up your mind about what your verdict will be until the end of the trial when you have heard all the evidence and after I have explained the law you must follow.***
2. ***Do not give out information or receive information about the case outside the courtroom. Do not discuss the case with anyone during the trial. Not with each other, not with any of the lawyers, parties, or witnesses, not with your friends and family, and not with anyone on social media or Internet sites.***

* Renumbered (former 1.52).

I know you may be tempted to discuss with each other a witness's testimony you just heard or other evidence, but do not do so. Something you say may distract or improperly influence another juror. It is only fair to allow each juror to keep an open mind throughout the trial. So please, keep your comments and your thoughts to yourself until it is time to deliberate.

You must not talk with any of the parties, lawyers, witnesses, or anyone else involved in this trial. You must not even pass the time of day with them. A person from one side of the lawsuit who sees you talking to a person from the other side might legitimately doubt your fairness as a juror. It might be misinterpreted as jury tampering. Therefore avoid the parties, their lawyers, and all witnesses. Your juror badge identifies you as a juror—someone very special in our justice system who is not to be approached in any way.

You must not talk about the case with your family, friends, or anyone else. When you go home, you may only say that you have been selected as a juror in a civil case and that the trial is expected to last *[insert number of days]* days. You must not tell them anything more about the case. If anyone asks, explain to them you are not permitted to discuss anything about the trial, until your verdict has been recorded and the trial is over.

I am well aware that in daily life, you may regularly communicate with friends and family through text messaging, e-mail, Twitter, social networking websites, chat rooms, Facebook, MySpace, LinkedIn, YouTube, blogs, or other websites *[insert any new social media examples]*. Remember—you must not communicate about this case in any way, even electronically (no texting, e-mailing, tweeting, or posting).

3. *Do not read or listen to stories about the case in newspapers, magazines, Internet sites, or on radio or television.* Avoid listening to TV or radio newscasts. Do not read any newspapers, journals, or Internet sites that might discuss the case. You may ask a friend or family member to save newspapers for you until you have reached your verdict and the trial is over.
4. *Do not visit the locations discussed in the case and do not conduct independent research or investigation about the parties, witnesses, lawyers, or any other issue about the case.* You must decide all questions of fact only based upon the evidence received in this trial and not from any other source. Do not conduct experiments. Do not read books, magazines, Internet sites, or other reference works for additional information. I am well aware that in daily life, many of you regularly use the Internet to obtain all types of information. Anyone can put anything on the Internet and that information may or may not be accurate or reliable, and probably would not be admissible as evidence during a trial. During this trial, I must

decide that the information you hear and exhibits you see are sufficiently reliable to be admissible under the Rules of Evidence and the law. Relying on any information you obtain outside the courtroom is not only in violation of these rules, it is unfair because the parties would not have the opportunity to refute it, explain it, or correct it. Do not look up any legal terms or any other words you do not understand. I will explain all of them to you. If you do not understand, please just ask me to re-explain it in a better way.

5. *You must be fair to everyone.* Under our justice system, you must not consider the race, religion, national origin, gender identity, sexual orientation, age, disability, or social status of the parties, witnesses, or their lawyers in deciding this case.
6. *Turn off all cell phones and electronic devices while you are in the courtroom.* All personal electronic devices must be turned off while you are in the courtroom. You must give your undivided attention to the trial.

[Conclusion]

While these rules may seem unduly restrictive, you must carefully follow them. The reason is simple—the law requires it and the parties depend on you to fairly and impartially consider only the evidence admitted during the trial.

To do otherwise—to allow yourself to be distracted or to allow outside information to affect your judgment, would be unfair and prejudicial to the parties.

I want you to understand the reasons for these rules I have given you. I know that, for some of you, it requires a change in the way you are used to communicating and perhaps even in the way you are used to learning.

In court, the role of jurors is to make important decisions that have consequences for the parties, and the decisions must be based on the evidence that you hear in this courtroom, not on anything else. For those of you who are used to looking up information on the Internet, I want you to understand why you are not permitted to do any research on anything having to do with this trial or the parties here.

The evidence that is presented in court is evidence that can be tested; it can be shown to be right or wrong by one side or the other; it can be questioned; and it can be contradicted by other evidence. What you would read or hear on your own could easily be wrong, out of date, or inapplicable to this situation. It is for these reasons that the courts have always limited the evidence to what can be tested here in court.

The whole point of a trial is to ensure that the facts on which jurors base their decisions have been fully and carefully tested by opposing parties, so limiting the evidence you consider in reaching a verdict to what they have been allowed to test and debate in this courtroom is the only way you can protect their right to receive a fair trial.

Another fundamentally important fact for you to bear in mind is that the presentation of evidence and the debate that occurs here in the courtroom about the meaning of the evidence is a public process. This allows everyone in our community, as well as the parties in this case, to know the evidence on which your verdict was based. Using information gathered in secret and discussed only by the jurors behind closed doors undermines the public process and violates the rights of the parties.

I want to be clear that this rule prohibiting any independent research applies to every kind of research—including asking someone a question related to the issues in the trial, discussing the trial with anyone outside of deliberations, and using electronic research tools as well as dictionaries, encyclopedias, and any other outside sources.*

Your role as jurors is to make important decisions that have consequences for the parties, and your decisions must be based on the evidence that you hear in the courtroom, not on anything else.

As I have said before, violation of these rules could lead to an investigation of jury tampering, and possibly require a new trial with a new jury. A new trial would be expensive to the parties, expensive to this court, and embarrassing to you.

If someone should try to communicate with you about the case during the trial, or if you find one of these rules was broken, please report it to me or the jury tipstaff immediately so I may evaluate the problem and decide what we must do.

SUBCOMMITTEE NOTE

It is important from the very beginning of the trial of a case that the trial judge establish an effective communication with the jurors. This preliminary instruction, given immediately after the jury has been sworn, serves to explain the function of the trial judge and those of the jury, and to emphasize the jury's obligation to make the ultimate decision as to the facts that are in dispute.

The latest revisions to this instruction are relatively minor in substance. Language has been added, in a prominent position, to stress that the jurors are forbidden from looking to outside sources about the case—whether they be traditional (e.g., newspapers and broadcast media) or of more recent vintage (e.g.,

* Excerpt from *Trial*, “The Wired Juror, Unplugged,” November 2010, pp. 71–72.

the Internet). In addition, certain language from the prior instruction, though unchanged, has been relocated in the current version, for enhanced comprehensibility, in context. Otherwise, the revisions are largely by omission. It was the subcommittee's opinion that the existing charge was simply too long. An effort has been made, therefore, to streamline it, deleting certain redundancies and explanatory examples, while retaining all of the salient points.

The continuing purpose is to make the instructions understandable to the lay jury, while providing a technically accurate statement of the law. If this can be done without any sacrifice to necessary clarity and force, we can for all time refute the frequently quoted remark of the playwright, Channing Pollock, that judges' instructions are "grand conglomerations of garbled verbiage and verbal garbage."

To most of the jurors this is a novel experience. Their first direct contact with the majesty of the law should be designed to impress them with the relevance and the value of the courtroom procedures, developed over more than two centuries and structured upon extended historical English-American judicial experience. The beliefs and inaccurate conclusions gained from motion picture and television depiction of courtroom conduct must be shaken and eventually overcome, so that perverse conduct and arbitrary results will not be suffered. It is suggested that there are broader and more serious implications involved in the resolution of the particular dispute in the case at bar. The opportunity to educate citizens with regard to the dignity of the law and the significance of the rule by law cannot be overlooked. As at other times in our history, it is imperative, in this era, that we endeavor to maintain the respect for our institutions so necessary to the maintenance of a stable society.

Jurors' use of technology to communicate with non-jurors to conduct research is a new, pervasive, and ever-changing challenge.* The judge may wish to reiterate the instruction regarding these uses of technology throughout the trial. The judge may wish to consider removing the jurors' mobile telephones or other electronic communication devices during the trial itself or the jury deliberations. The best practice in so instructing the jury is to educate the jurors as to why uses of these devices is inappropriate.†

In considering the efficacy of these preliminary instructions and the nature and extent of the jury's response, the trial judge must draw the delicate balance in giving appropriate weight to the correlative considerations of guidance and control, the latter of which should have minimal impact on the jury's ultimate resolution.

* National Center for State Courts, Jur-E Bulletin, "Jury Instructions Prohibiting Jurors from Using Social Media," <http://nsydow@ncsc.org>.

† *Trial*, "The Wired Juror, Unplugged," November 2010.

PENNSYLVANIA
SUGGESTED STANDARD CIVIL JURY INSTRUCTIONS

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13.310 (Civ)

VERDICT FORM—CONTRIBUTORY NEGLIGENCE

If *[name of plaintiff]* was contributorily negligent, [he] [she] may not recover.

You must decide whether *[name of defendant]* was negligent and whether that negligence was a factual cause of [injury] [harm].

I will now read you the questions on the verdict form that you must answer to arrive at a proper verdict:

[Judges may provide each juror a copy of the verdict form at this time.]

Question 1:

Do you find that [the defendant] [any of the defendants] [was] [were] negligent?

Defendant A Yes ___ No ___

Defendant B Yes ___ No ___

Defendant C Yes ___ No ___

If you answer Question 1 “Yes” as to any defendant, you should answer Question 2 as to those defendants only.

If you answer Question 1 [“No”] [“No” as to all defendants], *[name of plaintiff]* cannot recover and you should not answer any further questions and should return to the courtroom.

Question 2:

Was [the defendant’s negligence] [the negligence of those defendants you have found to be negligent] a factual cause of any harm to *[name of plaintiff]*?

Defendant A Yes ___ No ___

Defendant B Yes ___ No ___

Defendant C Yes ___ No ___

If you answer Question 2 “Yes” as to any defendant, go to Question 3.

If you answer Question 2 [“No”] [“No” as to all defendants you have found to be negligent], *[name of plaintiff]* cannot recover and you should not answer any further questions and should return to the courtroom.

* Renumbered (13.250).

Question 3:

Was *[name of plaintiff]* negligent?

Yes ___ No ___

If you answer Question 3 “Yes,” go to Question 4.

If you answer Question 3 “No,” go to Question 5.

Question 4:

If you answered Question 3 “Yes,” was *[name of plaintiff]*'s negligence a factual cause of any harm to [him] [her]?

Yes ___ No ___

If you have answered Question 4 “Yes,” you have reached a verdict.

If you have answered Question 4 “No,” go to Question 5.

Question 5:

[Option A]

State the amount of damages, if any, sustained by *[name of plaintiff]* as a result of the [accident] [occurrence], for [past medical expenses] [future medical expenses] [past lost earnings] [future lost earning capacity] [past, present, and future pain and suffering] [embarrassment and humiliation] [loss of enjoyment of life] and [disfigurement].

\$ _____

[Option B]

Itemize the amount of damages, if any, sustained by *[name of plaintiff]* as a result of this accident.

(a) Past medical expenses \$ _____

(b) Future medical expenses \$ _____

(c) Past lost earnings \$ _____

(d) Future lost earning capacity \$ _____

- (e) Past, present, and future pain and suffering,
embarrassment and humiliation, and
loss of enjoyment of life \$ _____
- (f) Disfigurement \$ _____
- Total \$ _____

Advise the court officer that you have reached a verdict.

FOREPERSON