

13-118. Exclusion of witnesses. (*Optional.*)

The rule of exclusion of witnesses is in effect. This means that, until excused as a witness by me, all witnesses will remain outside the courtroom except when testifying. They will wait in the areas directed by the bailiff unless other arrangements have been made with the attorney who has called them. The rule also forbids witnesses from telling anyone but the lawyers what they will testify about or what they have testified to. If witnesses do talk to the lawyers about their testimony, other witnesses and jurors should avoid being present or overhearing.

The lawyers are directed to inform all witnesses of these rules and to remind them of their obligations. The parties and their lawyers should keep a careful lookout to prevent any potential witness from remaining in the courtroom if they enter by mistake.

USE NOTES

Rule 11-615 NMRA of the Rules of Evidence specifically provides that witnesses may be excluded so that they cannot hear the testimony of other witnesses. When properly invoked, this instruction is mandatory.

The rule does not apply to a natural person who is a party or a designated representative of an association, corporation or like entity.

Likewise, the rule does not apply to a person whose presence is shown by a party to be essential to the presentation of a claim, e.g., an agent who handled the transaction being litigated or an expert witness.

[13-107; as amended, effective January 1, 1987; November 1, 1991; recompiled and amended, effective March 1, 2005.]