

**61 NOTETAKING PERMITTED**

You may take notes during the trial, except during the opening statements and closing arguments. Court personnel will give you writing materials.

Be careful that notetaking does not distract you from carefully listening to and observing witnesses.

You may rely on your notes during your deliberations. Otherwise, keep them confidential. Court personnel will collect and destroy any notes after the trial.

**COMMENT**

This instruction was approved in 2017. It was adapted from Wis JI-Civil 61.

This instruction implements Wis. Stat. § 805.13(2), as amended by Chapter 358, Laws of 1981:

(2) Preliminary instructions and notetaking.

(a) After the trial jury is sworn, the court shall determine if the jurors may take notes of the proceedings:

1. If the court authorizes notetaking, the court shall instruct the jurors that they may make written notes of the proceedings, except the opening statements and closing arguments, if they so desire and that the court will provide materials for that purpose if they so request. The court shall stress the confidentiality of the notes to the jurors. The jurors may refer to their notes during the proceedings and deliberation. The notes may not be the basis for or the object of any motion by any party. After the jury has rendered its verdict, the court shall ensure that the notes are promptly collected and destroyed.

2. If the court does not authorize notetaking, the court shall state the reasons for the determination on the record.

(b) The court may give additional preliminary instructions to the jury which instructions may again be given in the charge at the close of the evidence.

Under the statute, the court must decide whether the jury should be allowed to take notes. The only Wisconsin decision discussing notetaking preceded the statute by several years, see *Fischer v. Fischer*, 31 Wis.2d 293, 142 N.W.2d 857 (1965).