



Committee on Professional Ethics

Opinion #246 -- 4/28/72 (23-72) Topic: Lawyers post verdict
communication with jurors.

Digest: Lawyer may communicate with
jurors concerning the
verdict and case.

Code*: EC 7-29; DR 7-108(D).

QUESTION

Following discharge of a jury, may a lawyer question a juror concerning the views of the juror or the panel as a whole about the case or any other matter relating to the jury's verdict?

OPINION

EC 7-29 reads in pertinent part:

"After the trial, communication by a lawyer with jurors is permitted so long as he refrains from asking questions or making comments that tend to harass or embarrass the juror or to influence actions of the juror in future cases. Were a lawyer to be prohibited from communicating after trial with a juror, he could not ascertain if the verdict might be subject to legal challenge, in which event the invalidity of a verdict might go undetected. When an extrajudicial communication by a lawyer with a juror is permitted by law, it should be made considerately and with deference to the personal feelings of the juror."

The provisions of EC 7-29 sanction the questioning of jurors concerning their views of the verdict and case, if permitted by law.

In communicating with a juror, the lawyer must at all times remain cognizant of DR 7-108(D), which states:

"After discharge of the jury from further consideration of a case with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence his actions in future jury service."

See also, N.Y. City 285 (1933); N.Y. City 767 (1952); ABA 319 (1968); American College of Trial Lawyers, Code of Trial Conduct Section 19(c).
