
101.40 PHOTOGRAPH, VIDEOTAPE, MOTION PICTURES, X-RAY, OTHER PICTORIAL REPRESENTATIONS MAP, MODELS, CHARTS - ILLUSTRATIVE AND SUBSTANTIVE EVIDENCE.

NOTE WELL: Use this instruction only if an exhibit was introduced for illustrative purposes. If all exhibits were received as substantive evidence, then no instruction is necessary.

(*Specify illustrative exhibit*) was received in evidence in this case for the purpose of illustrating and explaining the testimony of the witness (*name witness*).¹ This [photograph] [map] [model] [chart] is not substantive or direct evidence, that is, it has not been received into evidence to prove any fact in this case. You may consider this [photograph] [map] [model] [chart] only for the purpose of illustrating and explaining the testimony of the witness, to the extent, if any, that you find that it does so illustrate and explain the testimony of the witness. You may not consider it for any other purpose in connection with the trial of this case.

NOTE WELL: If a photograph, videotape, motion picture, or other photographic representation was introduced as substantive evidence,² use the following language to distinguish such exhibit from the exhibit admitted for illustrative purposes.

Now (*specify substantive exhibit*) was received in evidence as substantive evidence. This means that your consideration of this [photograph] [videotape] [motion picture] [photographic representation] is not limited to purposes of illustration but may be considered by you as evidence of what you determine it tends to show or represent.

1. See generally, Brandis on North Carolina Evidence, § 34 (1982).

N.C.P.I.-Civil. 101.40

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2. N.C. Gen. Stat. § 8-97. The statute does not include maps and models which are
apparently limited to illustrative purposes.