

**1.11 PRELIMINARY CHARGE** (Approved 11/1998; Revised 04/2018)

**G. Settling Defendants<sup>1</sup>**

*[To be given after the jury is sworn in but before the openings.]*

When this case started, plaintiff claimed that \_\_\_\_\_ was a cause of the accident. Before the trial started, \_\_\_\_\_ settled with plaintiff and for that reason will no longer be involved in this trial.

The effect of that settlement on the parties still here is of no concern to you at the present time and you should not speculate about that. I will explain the effect that settlement will have on your deliberations at the end of the case.

***NOTE TO JUDGE***

In *Hernandez v. Chekenian*, 447 N.J. Super. 355 (Law Div. 2016), Judge Rea held that Model Civil Jury Charges 1.11G and 1.17 should only be used in cases where the defendant settles during trial. It should not be given when defendants settle before the trial begins because it is irrelevant and unduly prejudicial. In dicta, he questioned the use of the terms “settlement” and “settled” as being irrelevant as well as prejudicial. This case, while published, has not been the subject of appellate review. The Supreme Court Committee for Model Civil Jury Charges is providing this for informational purposes for the trial judge.

As to whether settlements are admissible in to evidence, *see Shankman v. State, et al.*, 184 N.J. 187, 207-208 (2005).

---

<sup>1</sup> See Model Civil Jury Charge 1.17 entitled "Instructions to Jury in Cases in Which One or More Defendants Have Settled With the Plaintiff" for use in this charge.