

1.12 GENERAL PROVISIONS FOR STANDARD CHARGE
(Approved 11/98)

X. Exceptions of Counsel

[TO COUNSEL] - Does Counsel wish to be heard at side bar? [If there are serious objections: "Since counsel have some comments about my instructions, I'm going to excuse you while I consider their points. Do not begin to discuss the case because after I hear the lawyer's comments, I may change some of the things that I have said to you. Our discussion will take only a few moments, and then I'll bring you back."]

[See *R. 1:7-2* which provides: "No party may urge as error any portion of the charge to the jury or omissions therefrom unless he objects thereto before the jury retires to consider its verdict, but opportunity shall be given to make the objection in open court, in the absence of the jury. If a party has no opportunity to object to a ruling, order or charge, the absence of an objection shall not thereafter prejudice him."]

[How individual judges handle charge conferences differs. Some give out a "draft charge" early on in the case to focus the attention of counsel. Then there is discussion on the record just before "closing arguments" when a final charge and the verdict sheet are decided.

Others prefer the informality of a "charge conference" in chambers. Then it is important for counsel to be given opportunity to place objections, if there be any, on the record before the jury is sent out. Whatever format the judge selects, he or she should be mindful of the *Rule 1:7-2* and even after he or she has given his or her charge, should ask counsel "if they have anything further before I send the jury out to deliberate". Sometimes in a complicated charge you may leave something out that counsel can correct.]