

1.22 EXPEDITED JURY TRIALS (Approved 01/2001)

(PRELIMINARY and POST TRIAL INSTRUCTIONS)

NOTE TO JUDGE

An “expedited jury trial” is a form of “summary jury trial” conducted pursuant to a consent order, which results in a binding and appealable jury decision. It is best suited for cases in which expert witnesses are either unavailable or in which the cost of their testifying is not justified. Its major advantage is that it obviates the need for live expert testimony and allows the case to be presented to a jury based on medical reports and records with limited lay testimony. A more detailed discussion of the procedure and a form of the consent order which is the foundation of the expedited trial can be found in Section 7 of the Civil CDR Program Resource Book, July 2005. A proposed consent order (available from the Civil Presiding Judge) should be entered into by counsel for all parties before any expedited jury trial begins.

The nature of the expedited jury trial requires revision to some of the model charges. For convenience, all modifications to the model charges required for an expedited jury trial are re-collected here for easier reference.

NOTE TO JUDGE

Preliminary Statements to be given before outlining the order of events in the trial as per Model Civil Jury Charge 1.11E.

This will be what is known as an “expedited jury trial,” which is a streamlined procedure in which written materials such as doctor reports, medical records, statements from witnesses, and recorded pretrial testimony known as depositions may be used in place of live testimony from witnesses. The information contained in these materials and submitted to you for review should be given the same weight and consideration as live testimony given under oath in court.

NOTE TO JUDGE

Alternative to Credibility Charge for Expedited Jury Trial
Model Civil Jury Charge 1.12K

In this Expedited Jury Trial, the attorneys have produced evidence in the form of live testimony and also in the form of written materials including [*expert reports/statements/records/depositions*]. You will have to decide which evidence to believe and which evidence not to believe. Regardless of whether the evidence comes from a layperson or expert, you may believe all of it, only part of it, or none of it.

In deciding what evidence to believe, you may take into consideration:

1. the interest, if any, of the witness or preparer of the written material in the outcome of this case;
2. the accuracy of the recollection of the witness or preparer of the written material;
3. the ability of the witness or preparer of the witness material to know what he/she/it is talking about;
4. the reasonableness of the evidence;
5. the demeanor of live witnesses on the stand;
6. the witness' candor or evasion;
7. the witness' willingness or reluctance to answer;
8. the inherent believability of the evidence; and
9. the presence of any inconsistent or contradictory statements.

NOTE TO JUDGE

Alternative to Expert Testimony Charge for Expedited Jury Trial
Model Civil Jury Charge 1.13

The evidence in this Expedited Jury Trial includes reports from experts. Generally, witnesses can only present the facts and are not permitted to give opinions. However, an exception to this rule exists in the cases of an expert. An expert may give an opinion on a matter in which he or she has [*some special knowledge, education, skill, experience or training*]. An expert may be able to assist you in understanding the evidence in this case or in performing your duties as a fact finder. But I want to emphasize to you that the determination of the facts in this case rests solely with you as jurors.

In this case, the reports of the following experts were marked into evidence and contained certain opinions:

[*state the experts' names*]

In examining the opinions of each expert, you may consider the person's reasons for rendering the opinion(s), if any. You may also consider the qualifications of the individual(s) and the believability of the expert(s), including all the considerations that generally apply when you are deciding whether or not to believe a witness' testimony.

The weight of the expert's opinion depends on the facts on which the expert bases his/her opinion. You, as jurors, must also decide whether the facts relied upon by the expert actually exist.

Finally, you are not bound by the opinions of an expert. You may give them whatever weight you deem appropriate. You may accept or reject all or part of an expert's opinions.

It is for you, the jury, to resolve any conflicts in the reports of the experts, using the same guidelines in determining credibility that I mentioned earlier.