

1.13 EXPERT TESTIMONY¹ (Approved 4/95)

You have heard testimony from a witness(es) who was (were) called as experts. Generally, witnesses can testify only about the facts and are not permitted to give opinions. However, an exception to this rule exists in the case of an expert witness. An expert witness may give an opinion on a matter in which the witness has (some special knowledge, education, skill, experience or training).² An expert witness may be able to assist you in understanding the evidence in this case or in performing your duties as a fact finder.³ 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, *[list experts]* were called as experts and testified about certain opinions.

¹ In the following instances, the Committee has approved specific charges on expert testimony and these charges should be given instead of the general charge on expert testimony:

5.50	Medical Negligence
5.51	Legal Malpractice
5.52	Professional Liability of an Architect/Engineer
9.10	Condemnation

² N.J. *Rules of Evidence* 702. The Committee recommends that a judge select the two most appropriate reasons offered to support the expert testimony in a particular case, because jurors are more likely to recall one or two items rather than an entire list.

³ N.J. *Rules of Evidence* 702, 703, 704. See also *Landrigan v. Celotex Corp.*, 127 N.J. 404 (1992).

In examining each expert's opinion(s), you may consider the person's reasons for testifying, if any. You may also consider the qualifications of the individual(s) and the believability of the expert, including all the considerations that generally apply when you are deciding whether or not to believe a witness' testimony.⁴

The weight of the expert's opinion depends on the facts on which the expert bases his/her opinion.⁵ You as jurors must also decide whether the facts relied upon by the expert actually exist.

Finally, you are not bound by the testimony of an expert. You may give it whatever weight you deem is appropriate. You may accept or reject all or part of an expert's opinion(s).⁶

⁴ *State v. Perez*, 218 N.J. Super. 478, 486 (App. Div. 1987).

⁵ *Polyard v. Terry*, 160 N.J. Super. 497, 511 (App. Div. 1978), *aff'd*, 79 N.J. 547 (1979). See also N.J. Rules of Evidence 703.

⁶ *State v. Spann*, 236 N.J. Super. 13, 21 (App Div. 1989).