

EXPERT WITNESS ¹

You will recall that (*specify*) testified

[about certain (scientific), (medical), (technical) matters]

[or *specify the field(s)*]

and gave an opinion on such matters.

Ordinarily, a witness is limited to testifying about facts and is not permitted to give an opinion. Where, however, scientific, medical, technical or other specialized knowledge will help the jury understand the evidence or to determine a fact in issue, a witness with expertise in a specialized field may render opinions about such matters.

You should evaluate the testimony of any such witness just as you would the testimony of any other witness. You may accept or reject such testimony, in whole or in part, just as you may with respect to the testimony of any other witness.

In deciding whether or not to accept such testimony, you should consider the following:

- the qualifications and believability of the witness;
- the facts and other circumstances upon which the witness's opinion was based;
- [the accuracy or inaccuracy of any assumed or hypothetical fact upon which the opinion was based;]
- the reasons given for the witness's opinion; and
- whether the witness's opinion is consistent or inconsistent with other evidence in the case.

1. See generally, *People v. Brown*, 97 N.Y.2d 500 (2002); *People v. Lee*, 96 N.Y.2d 157 (2001); *People v. Fratello*, 92 N.Y.2d 565 (1998); *People v. Miller*, 91 N.Y.2d 372 (1998); *People v. Aphaylath*, 68 NY2d 945 (1986); *People v. Brown*, 67 NY2d 555 (1986); *People v. Cronin*, 60 NY2d 430 (1983).