

2.2 Stipulated Testimony

The parties have agreed what [*name of witness*]'s testimony would be if called as a witness. You should consider that testimony in the same way as if it had been given here in court.

Comment

There is a difference between stipulating that a witness would give certain testimony and stipulating that the facts to which a witness might testify are true. *United States v. Lambert*, 604 F.2d 594, 595 (8th Cir. 1979) (per curiam); *United States v. Hellman*, 560 F.2d 1235, 1236 (5th Cir. 1977) (per curiam). On the latter, see Instruction 2.3 (Stipulations of Fact).

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