**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).

*Revised Sept. 2019*