

1 **14-5051. Hypothetical questions.**

2 In examining an expert witness, the lawyer may ask [~~him~~] the witness to assume a state of  
3 facts and to give an opinion based on that assumption.

4 In permitting such a question, the court does not rule, and does not necessarily find that all  
5 the assumed facts have been proved.

6 You must find from all the evidence whether or not the assumed facts have been proved.  
7 If you should find that any assumption has not been proved, you are to determine the effect of that  
8 failure of proof on the value and weight of the expert opinion based on the assumption.

9 USE NOTES

10 No instruction on this subject shall be given.

11 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending  
12 or filed on or after December 31, 2025.]

13 **Committee commentary.** — Under Rule 11-705 NMRA, it is no longer necessary for the expert  
14 to be asked a hypothetical question, i.e., to assume certain facts and to give an opinion based on  
15 that assumption. *See* 56 F.R.D. 183, 285 (1973). Consequently, the committee believed that it was  
16 not necessary for the jury to be instructed on this subject. Compare UJI 13-209.