

**268 OPINION OF A NONEXPERT WITNESS**

Ordinarily, a witness may testify only about facts. However, in this case (name of witness) was allowed to give an opinion as to (identify the subject on which an opinion was given).

In determining the weight you give to this opinion, you should consider the witness' opportunity to observe what happened and the extent to which the opinion is based on that observation.

Opinion evidence was received to help you reach a conclusion. However, you are not bound by the opinion of any witness.

**COMMENT**

This instruction and comment were approved in 2012.

This instruction is for the situation where a nonexpert witness is allowed to testify in the form of an opinion. § 907.01.

Section 907.01 was amended by 2011 Wisconsin Act 2 to read as follows:

907.01 Opinion testimony by lay witnesses. If the witness is not testifying as an expert, the witness's testimony in the form of opinions or inferences is limited to those opinions or inferences which are all of the following:

- (1) Rationally based on the perception of the witness.
- (2) Helpful to a clear understanding of the witness's testimony or the determination of a fact in issue.
- (3) Not based on scientific, technical, or other specialized knowledge within the scope of a witness under s. 907.02(1).

Subsections (1) and (2) were part of the prior statute; subsection (3) was created by Act 2.

For discussion on the opinion of a nonexpert witness, see Wis JI-Criminal 201.