**1A.11 LIMITING INSTRUCTION – CLAIMS OF PRIVILEGE BY PARTY GENERALLY**

People have a legal right not to disclose (insert description of what is privileged--e.g., what they told their lawyer in confidence) because this information falls within an area that the law regards as private. A party is not to be penalized in any way for exercising this right. To protect privacy, the law provides that this right may be exercised freely and without fear of penalty.

Use Note

Alaska R. Evid. 512(b) provides that jury trials shall be conducted, to the extent practicable, so as to facilitate the making of privilege claims outside the hearing of the jury. This instruction should be used when this has not been practicable and the jury has heard a claim of privilege. Alaska R. Evid. 512(c) gives a party a right to a limiting instruction when a claim of privilege might result in an adverse inference against that party. This instruction does not cover the exercise of the privilege against self-incrimination, which is covered by instruction 1A.13.

The word "right" is used instead of "privilege" for emphasis and because it is a more common word.

Comment

Alaska R. Evid. 512(a) establishes that generally a claim of privilege is not a proper subject of comment by judge or counsel and that no inference may be drawn therefrom. This instruction complements the evidence rule.

It should be noted that the instruction might be omitted if the party who would be hurt by a claim of privilege believes that any instruction would unduly emphasize the fact that information was concealed from the jury.