

CREDIBILITY OF WITNESSES

It will be your duty to decide any disputed questions of fact. You will have to determine which witnesses to believe, and how much weight or importance to give their testimony. You should give the testimony of each witness whatever degree of belief and importance that you judge it is fairly entitled to receive. You are the sole judges of the credibility, the believability, of the witnesses, and if there are any conflicts in the testimony, it is your function to resolve those conflicts and to determine where the truth lies.

You may believe everything a witness says, or only part of it or none of it. In deciding whether to believe a witness and how much importance to give a witness's testimony, you must look at all the evidence, drawing on your own common sense and life experience. Often it may not be *what* a witness says, but *how* the witness says it that might give you a clue whether or not to accept his or her version of an event as believable. You properly may consider a witness's appearance and demeanor on the witness stand, frankness or lack of frankness in testifying, and whether the witness's testimony is

reasonable or unreasonable, probable or improbable. You may take into account how good an opportunity the witness had to observe the facts about which the witness testifies, the degree of intelligence shown by the witness, and whether the witness's memory seems accurate.

You may also consider the witness's motive for testifying, whether the witness displays any bias in testifying, and whether or not the witness has any interest in the outcome of the case.

"Credibility is a question for the jury to decide; they may accept or reject, in whole or in part, the testimony presented to them." *Commonwealth v. Parker*, 389 Mass. 27, 31 (1983), citing *Commonwealth v. Fitzgerald*, 376 Mass. 402, 410-411 (1978). "The trier of fact properly may consider the character, appearance, demeanor, frankness, and the reasonableness of testimony of witnesses and parties, in determining their credibility." *Commonwealth v. Coleman*, 390 Mass. 797, 802 (1984) (citation omitted).

1. **Interested witness. The fact that a witness may have some interested in the outcome of this case does not mean that the witness is not trying to tell you the truth as (he / she / they) recalls it or believes it to be. But the witness's interest is a factor that you may consider along with all the other factors in deciding issues of credibility.**

2. **Discrepancies in testimony. Where there are inconsistencies or discrepancies in a witness's testimony or between the testimony of**

different witnesses, that may or may not cause you to discredit such testimony.

Keep in mind that innocent mistakes of memory do happen. Sometimes people forget things, get confused, or remember an event differently. Sometimes people just bald-face lie. In weighing any such discrepancies, you should consider whether they involve important facts or only minor details, and whether the discrepancies result from innocent lapses of memory or intentional falsehoods.