

N.Y. Pattern Jury Instr.--Civil 1:22

New York Pattern Jury Instructions--Civil
Database updated December 2015

Committee on Pattern Jury Instructions Association of Supreme Court Justices

Division 1. General Charges

B. Charge After Trial

1. Where Pre-Trial Charge Has Been Given

PJI 1:22 Falsus in Uno

If you find that any witness has wilfully testified falsely as to any material fact, that is as to an important matter, the law permits you to disregard completely the entire testimony of that witness upon the principle that one who testifies falsely about one material fact is likely to testify falsely about everything. You are not required, however, to consider such a witness as totally "unbelievable." You may accept so much of his or her testimony as you deem true and disregard what you feel is false. By the processes which I have just described to you, you, as the sole judges of the facts, decide which of the witnesses you will believe, what portion of their testimony you accept and what weight you will give to it.

Comment

Based on *Deering v Metcalf*, 74 NY 501 (1878); *Petrovski v Fornes*, 125 AD2d 972, 510 NYS2d 366 (4th Dept 1986) (citing PJI); *Accardi v New York*, 121 AD2d 489, 503 NYS2d 818 (2d Dept 1986) (citing PJI); *Cibulski v Hutton*, 47 App Div 107, 62 NYS 166 (3d Dept 1900); see *People v Perry*, 277 NY 460, 14 NE2d 793 (1938); *Moett v People*, 85 NY 373 (1881); but see Annot: 4 ALR2d 1077.

The principle falsus in uno permits the jury to disregard in its entirety the testimony of a witness who has willfully given false testimony on a material matter, *U.S. v Weinstein*, 452 F2d 704 (2d Cir 1971). This common law maxim is permissive, not mandatory, and an instruction thereon is merely advisory, Hunter, *Federal Trial Handbook*, Ch. 33, § 33.13 (4th ed); see *People v Becker*, 215 NY 126, 109 NE 127 (1915); see also *U.S. v Jones*, 880 F2d 55 (8th Cir 1989); *Parker v U.S.*, 801 F2d 1382 (DC Cir 1986); *People v Whaley*, 277 AD2d 151, 717 NYS2d 107 (1st Dept 2000); *People v Johnson*, 225 AD2d 464, 639 NYS2d 802 (1st Dept 1996).

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