**02.08 CLOSING INSTRUCTIONS – CREDIBILITY OF WITNESSES**

You have heard a number of witnesses testify in this case. You must decide how much weight to give the testimony of each witness.

In deciding whether to believe a witness and how much weight to give a witness's testimony, you may consider anything that reasonably helps you to evaluate the testimony. Among the things that you should consider are the following:

(1) the witness's appearance, attitude, and behavior on the stand and the way the witness testified;

(2) the witness's age, intelligence, and experience;

(3) the witness's opportunity and ability to see or hear the things the witness testified about;

(4) the accuracy of the witness's memory;

(5) any motive of the witness not to tell the truth;

(6) any interest that the witness has in the outcome of the case;

(7) any bias of the witness;

[(8) any opinion or reputation evidence about the witness's truthfulness;]

[(9) any prior criminal convictions of the witness which relate to honesty or veracity;]

(10) the consistency of the witness's testimony and whether it was supported or contradicted by other evidence.

You should bear in mind that inconsistencies and contradictions in a witness' testimony, or between a witness's testimony and that of others, do not necessarily mean that you should disbelieve the witness. It is not uncommon for people to forget or to remember things incorrectly and this may explain some inconsistencies and contradictions. It is also not uncommon for two honest people to witness the same event and see or hear things differently. It may be helpful when you evaluate inconsistencies and contradictions to consider whether they relate to important or unimportant facts.

If you believe that part of a witness's testimony is false, you may also choose to distrust other parts of that witness's testimony, but you are not required to do so. You may believe all, part, or none of the testimony of any witness. You need not believe a witness even if the witness's testimony is uncontradicted. However, you should act reasonably in deciding whether you believe a witness and how much weight to give to the witness's testimony.

You are not required to accept testimony as true simply because a number of witnesses agree with each other. You may decide that even the unanimous testimony of witnesses is erroneous. However, you should act reasonably in deciding whether to reject uncontradicted testimony.

When witnesses are in conflict, you need not accept the testimony of a majority of witnesses. You may find the testimony of one witness or of a few witnesses more persuasive than the testimony of a larger number.

# Use Note

This instruction should be given in all cases in which witnesses testify. Numbered statements 8 and 9 need not be given if character evidence and prior convictions were not admitted into evidence. This instruction is similar to Instruction 01.07 which may be given at the beginning of a case.

# Comment

A traditional part of jury instructions covers the credibility of witnesses. Usually these instructions are given at the end of a case. But post-evidence instructions may come too late to help the jury determine the credibility of witnesses. Thus, a number of Alaska trial judges give a preliminary instruction on witness credibility. Instruction 01.06 supports this practice.

Instruction 02.08 is a more complete instruction. It satisfies most of the requirements of Alaska R. Civ. P. 51(b)(1)(4), which requires or suggests that certain instructions on the evidence should be given. Most of these will make more sense to the jury after all the evidence is in. One requirement of Alaska R. Civ. P. 51(b)(4) is covered by Instruction 02.23, infra.

This instruction avoids any requirement that jurors accept some testimony as true. See Oksoktaruk v. State, 611 P.2d 521 (Alaska 1980).