

Interest/Lack of Interest¹

You may consider whether a witness has any interest in the outcome of the case, or instead, whether the witness has no such interest.

[Note: Add if appropriate:

A defendant who testifies is a person who has an interest in the outcome of the case.]

You are not required to reject the testimony of an interested witness, or to accept the testimony of a witness who has no interest in the outcome of the case.

You may, however, consider whether an interest in the outcome, or the lack of such interest, affected the truthfulness of the witness's testimony.

¹ *Reagan v. United States*, 157 U.S. 301, 310 [1895] (the trial court “may, and sometimes ought, to remind the jury . . . that the interest of the defendant in the result of the trial is of a character possessed by no other witness, and is therefore a matter which may seriously affect the credence that shall be given to his testimony”); *Portuondo v Agard*, 529 US 61, 72-73 [2000] [reaffirming *Regan* in a case where the trial court instructed the jury that “A defendant is of course an interested witness since he is interested in the outcome of the trial. You may as jurors wish to keep such interest in mind in determining the credibility and weight to be given to the defendant's testimony”]; *Compare United States v. Gaines*, 457 F3d 238, 249 [2d Cir 2006] [an interested witness charge errs when it states that the defendant has a “deep personal interest” or “a motive to lie”];

People v. Agosto, 73 NY2d 963, 967 [1989] [“we find no error in the court's interested witness charge. The court gave the standard instruction that the jury could consider whether *any* witness had an interest in the outcome of the case which might affect his or her testimony and that merely because a witness was interested did not mean that he or she was not telling the truth (see, 1 CJI[NY] 7.03). There is no question that defendant was an interested witness as a matter of law as the court appears to have charged”];

People v. Boone, 146 AD3d 458, 460 [1st Dept 2017] [“The court's interested witness charge, which followed the Criminal Jury Instructions, was not constitutionally deficient”];

People v. Wilson, 93 AD3d 483, 484 [1st Dept 2012] ["The court properly instructed the jury on defendant's status as an interested witness . . . The charge did not undermine the presumption of innocence, suggest that defendant had a motive to lie, or intimate that defendant should not be believed. Instead, it simply referred to defendant as an interested witness and permitted the jury to consider whether any witness's interest or lack of interest in the outcome of the case affected the witness's truthfulness"];

People v. Dixon, 63 AD3d 854, 854-55 [2d Dept 2009] ["The defendant's contention that the County Court's charge to the jury concerning the defendant as an interested witness improperly shifted the burden of proof or undermined the presumption of innocence is without merit. The jury charge properly identified the defendant as an example of an interested witness and permitted the jury to consider whether any witness's interest or lack of interest in the outcome of the case affected the truthfulness of such witness's testimony"];

People v. Blake, 39 AD3d 402, 403 [1st Dept 2007] ["The court's interested witness charge did not shift the burden of proof or undermine the presumption of innocence. The court delivered the standard charge (see CJI2d[NY] Credibility–Interest/Lack of Interest . . .), which simply referred to defendant as an example of an interested witness and permitted the jury to consider whether any witness's interest or lack of interest in the outcome of the case affected the truthfulness of such witness's testimony. The charge contained no language about defendant having a motive to lie or deep personal interest in the case, and nothing in the charge assumed or suggested that he was guilty"].