



WITNESSES: COMPETENCY & CREDIBILITY

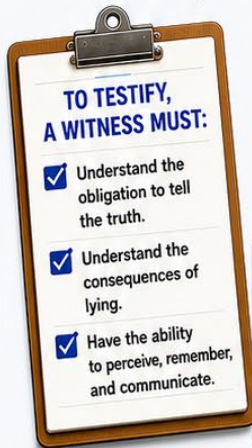
**MJEB
STUDY AID**

PAGE 1 OF 6

WHO CAN TESTIFY? • HOW WEIGH THEIR TESTIMONY?

1 COMPETENCY (Pa.R.E. 601)

EVERY PERSON IS COMPETENT TO BE A WITNESS
unless a rule provides otherwise.



SEEKING A DETERMINATION OF INCOMPETENCY (Pa.R.E. 104)

If a party claims a witness is not competent, the MDJ must hold a hearing and determine competency before the witness may testify.



THE BAR IS LOW. INCLUDE, DON'T EXCLUDE.
Doubt goes to the weight, not the competency.

2 CREDIBILITY (Pa.R.E. 607, 608, 609)

CREDIBILITY IS FOR THE FACT-FINDER TO DECIDE.
Test the testimony. Weigh the truth.



**OBSERVES
DEMEANOR**
Way of speaking,
body language,
attitude.



**CONSIDERS
MEMORY**
Ability to recall
events clearly
and accurately.



**EXAMINES
CONSISTENCY**
Compare testimony
with other evidence
and prior statements.



**EVALUATES
PLAUSIBILITY**
Does it make sense?
Does it fit with
common experience?



**LOOKS FOR
BIAS OR MOTIVE**
Does the witness
have a reason to
lie or exaggerate?



**REVIEW PRIOR
STATEMENTS**
Inconsistencies may
affect how much
weight to give.

IMPEACHMENT TOOLS

Parties may challenge credibility using:



**PRIOR
INCONSISTENT
STATEMENTS**



**BIAS, INTEREST,
OR MOTIVE**



**REPUTATION FOR
TRUTHFULNESS
(RULE 608)**



**CRIMINAL
CONVICTIONS
(RULE 609)**



COMPETENCY GETS THE WITNESS **IN** THE DOOR.



CREDIBILITY DETERMINES HOW **FAR** THEY GO.

3 FACTORS THAT AFFECT CREDIBILITY (Examples)



TIME & OPPORTUNITY

Was the witness
in a position to
see, hear, or
know what they
testified about?



OBSERVATION CONDITIONS

Lighting, distance,
obstructions,
noise, stress, or
other conditions
may affect
perception.



MEMORY & ACCURACY

Memory fades.
Details change.
Strong memory
today doesn't
prove perfect
memory then.



CONSISTENCY OF TESTIMONY

Look for
consistency within
testimony and
with other
evidence.



MOTIVE & BIAS OF THE WITNESS

Financial interest,
friendship, animosity,
or self-protection
can influence
testimony.



CHARACTER FOR TRUTHFULNESS

Evidence of a
witness's general
reputation for
truthfulness
may be
considered.



EXPERIENCE & BELIEVABILITY

Demeanor,
intelligence,
experience, and
common sense
play a role.



REMEMBER

*The witness is not the evidence.
Test the testimony. Trust the truth.*



KEY TAKEAWAY

- ✓ Competency = ability to testify.
- ✓ Credibility = believability of the testimony.
- ✓ The fact-finder is the ultimate judge of credibility.

CREDIBILITY IS EARNED. TRUTH IS PROVEN.



“ Not all testimony is equal. It is the fact-finder's job to decide what they believe. ”





WITNESSES: COMPETENCY & CREDIBILITY

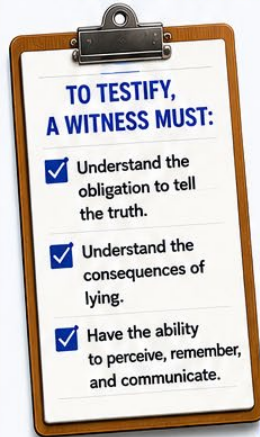
**MJEB
STUDY AID**

PAGE 2 OF 6

WHO CAN TESTIFY? • HOW WEIGH THEIR TESTIMONY?

1 COMPETENCY (Pa.R.E. 601)

EVERY PERSON IS COMPETENT TO BE A WITNESS
unless a rule provides otherwise.



SEEKING A DETERMINATION OF INCOMPETENCY (Pa.R.E. 104)

If a party claims a witness is not competent, the MDJ must hold a hearing and determine competency before the witness may testify.



THE BAR IS LOW. INCLUDE, DON'T EXCLUDE.
Doubt goes to the weight, not the competency.

2 CREDIBILITY (Pa.R.E. 607, 608, 609)

CREDIBILITY IS FOR THE FACT-FINDER TO DECIDE.

Test the testimony. Weigh the truth.



OBSERVES DEMEANOR

Way of speaking,
body language,
attitude.



CONSIDERS MEMORY

Ability to recall
events clearly
and accurately.



EXAMINES CONSISTENCY

Compare testimony
with other evidence
and prior statements.



EVALUATES PLAUSIBILITY

Does it make sense?
Does it fit with
common experience?



LOOKS FOR BIAS OR MOTIVE

Does the witness
have a reason to
lie or exaggerate?



REVIEW PRIOR STATEMENTS

Inconsistencies may
affect how much
weight to give.

IMPEACHMENT TOOLS

Parties may challenge credibility using:



PRIOR
INCONSISTENT
STATEMENTS



BIAS, INTEREST,
OR MOTIVE



REPUTATION FOR
TRUTHFULNESS
(RULE 608)



CRIMINAL
CONVICTIONS
(RULE 609)



COMPETENCY GETS THE WITNESS **IN** THE DOOR.



CREDIBILITY DETERMINES HOW **FAR** THEY GO.

3 FACTORS THAT AFFECT CREDIBILITY (Examples)



TIME & OPPORTUNITY

Was the witness
in a position to
see, hear, or
know what they
testified about?



OBSERVATION CONDITIONS

Lighting, distance,
obstructions,
noise, stress, or
other conditions
may affect
perception.



MEMORY & ACCURACY

Memory fades.
Details change.
Strong memory
today doesn't
prove perfect
memory then.



CONSISTENCY OF TESTIMONY

Look for
consistency within
testimony and
with other
evidence.



MOTIVE & BIAS OF THE WITNESS

Financial interest,
friendship, animosity,
or self-protection
can influence
testimony.



CHARACTER FOR TRUTHFULNESS

Evidence of a
witness's general
reputation for
truthfulness
may be
considered.



EXPERIENCE & BELIEVABILITY

Demeanor,
intelligence,
experience, and
common sense
play a role.



REMEMBER

*The witness is not the evidence.
Test the testimony. Trust the truth.*



KEY TAKEAWAY

- ✓ Competency = ability to testify.
- ✓ Credibility = believability of the testimony.
- ✓ The fact-finder is the ultimate judge of credibility.

CREDIBILITY IS EARNED. TRUTH IS PROVEN.



“ Not all testimony is equal. It is the fact-finder's job to decide what they believe. ”





WITNESSES: COMPETENCY & CREDIBILITY

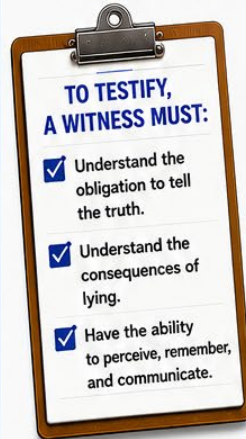
**MJEB
STUDY AID**

PAGE 3 OF 6

WHO CAN TESTIFY? • HOW WEIGH THEIR TESTIMONY?

1 COMPETENCY (Pa.R.E. 601)

EVERY PERSON IS COMPETENT TO BE A WITNESS
unless a rule provides otherwise.



SEEKING A DETERMINATION OF INCOMPETENCY (Pa.R.E. 104)

If a party claims a witness is not competent, the MDJ must hold a hearing and determine competency before the witness may testify.



THE BAR IS LOW. INCLUDE, DON'T EXCLUDE.

Doubt goes to the weight, not the competency.

2 CREDIBILITY (Pa.R.E. 607, 608, 609)

CREDIBILITY IS FOR THE FACT-FINDER TO DECIDE.
Test the testimony. Weigh the truth.



OBSERVES DEMEANOR

Way of speaking, body language, attitude.



CONSIDERS MEMORY

Ability to recall events clearly and accurately.



EXAMINES CONSISTENCY

Compare testimony with other evidence and prior statements.



EVALUATES PLAUSIBILITY

Does it make sense? Does it fit with common experience?



LOOKS FOR BIAS OR MOTIVE

Does the witness have a reason to lie or exaggerate?



REVIEW PRIOR STATEMENTS

Inconsistencies may affect how much weight to give.

IMPEACHMENT TOOLS

Parties may challenge credibility using:



**PRIOR
INCONSISTENT
STATEMENTS**



**BIAS, INTEREST,
OR MOTIVE**



**REPUTATION FOR
TRUTHFULNESS
(RULE 608)**



**CRIMINAL
CONVICTIONS
(RULE 609)**



COMPETENCY GETS THE WITNESS IN THE DOOR.



CREDIBILITY DETERMINES HOW FAR THEY GO.

3 FACTORS THAT AFFECT CREDIBILITY (Examples)



TIME & OPPORTUNITY

Was the witness in a position to see, hear, or know what they testified about?



OBSERVATION CONDITIONS

Lighting, distance, obstructions, noise, stress, or other conditions may affect perception.



MEMORY & ACCURACY

Memory fades. Details change. Strong memory today doesn't prove perfect memory then.



CONSISTENCY OF TESTIMONY

Look for consistency within testimony and with other evidence.



MOTIVE & BIAS OF THE WITNESS

Financial interest, friendship, animosity, or self-protection can influence testimony.



CHARACTER FOR TRUTHFULNESS

Evidence of a witness's general reputation for truthfulness may be considered.



EXPERIENCE & BELIEVABILITY

Demeanor, intelligence, experience, and common sense play a role.



REMEMBER

*The witness is not the evidence.
Test the testimony. Trust the truth.*



KEY TAKEAWAY

- ✓ Competency = ability to testify.
- ✓ Credibility = believability of the testimony.
- ✓ The fact-finder is the ultimate judge of credibility.

CREDIBILITY IS EARNED. TRUTH IS PROVEN.



“ Not all testimony is equal. It is the fact-finder's job to decide what they believe. ”





WITNESSES: COMPETENCY & CREDIBILITY

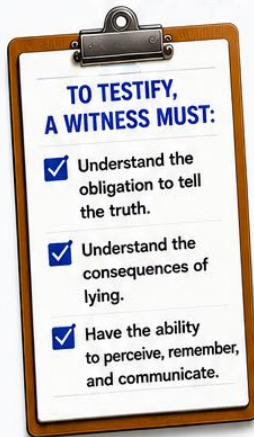
**MJEB
STUDY AID**

PAGE 4 OF 6

WHO CAN TESTIFY? • HOW WEIGH THEIR TESTIMONY?

1 COMPETENCY (Pa.R.E. 601)

EVERY PERSON IS COMPETENT TO BE A WITNESS
unless a rule provides otherwise.



SEEKING A DETERMINATION OF INCOMPETENCY (Pa.R.E. 104)

If a party claims a witness is not competent, the MDJ must hold a hearing and determine competency before the witness may testify.



THE BAR IS LOW. INCLUDE, DON'T EXCLUDE.
Doubt goes to the weight, not the competency.

2 CREDIBILITY (Pa.R.E. 607, 608, 609)

CREDIBILITY IS FOR THE FACT-FINDER TO DECIDE.
Test the testimony. Weigh the truth.



**OBSERVES
DEMEANOR**
Way of speaking,
body language,
attitude.



**CONSIDERS
MEMORY**
Ability to recall
events clearly
and accurately.



**EXAMINES
CONSISTENCY**
Compare testimony
with other evidence
and prior statements.



**EVALUATES
PLAUSIBILITY**
Does it make sense?
Does it fit with
common experience?



**LOOKS FOR
BIAS OR MOTIVE**
Does the witness
have a reason to
lie or exaggerate?



**REVIEW PRIOR
STATEMENTS**
Inconsistencies may
affect how much
weight to give.

IMPEACHMENT TOOLS

Parties may challenge credibility using:



**PRIOR
INCONSISTENT
STATEMENTS**



**BIAS, INTEREST,
OR MOTIVE**



**REPUTATION FOR
TRUTHFULNESS
(RULE 608)**



**CRIMINAL
CONVICTIONS
(RULE 609)**



COMPETENCY GETS THE WITNESS IN THE DOOR.



CREDIBILITY DETERMINES HOW FAR THEY GO.

3 FACTORS THAT AFFECT CREDIBILITY (Examples)



TIME & OPPORTUNITY

Was the witness
in a position to
see, hear, or
know what they
testified about?



OBSERVATION CONDITIONS

Lighting, distance,
obstructions,
noise, stress, or
other conditions
may affect
perception.



MEMORY & ACCURACY

Memory fades.
Details change.
Strong memory
today doesn't
prove perfect
memory then.



CONSISTENCY OF TESTIMONY

Look for
consistency within
testimony and
with other
evidence.



MOTIVE & BIAS OF THE WITNESS

Financial interest,
friendship, animosity,
or self-protection
can influence
testimony.



CHARACTER FOR TRUTHFULNESS

Evidence of a
witness's general
reputation for
truthfulness
may be
considered.



EXPERIENCE & BELIEVABILITY

Demeanor,
intelligence,
experience, and
common sense
play a role.



REMEMBER

*The witness is not the evidence.
Test the testimony. Trust the truth.*



KEY TAKEAWAY

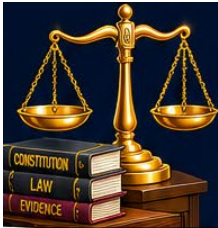
- Competency = ability to testify.
- Credibility = believability of the testimony.
- The fact-finder is the ultimate judge of credibility.

CREDIBILITY IS EARNED. TRUTH IS PROVEN.



**“ Not all testimony is equal. It is the fact-finder's job
to decide what they believe. ”**





WITNESSES: COMPETENCY & CREDIBILITY

WHO CAN TESTIFY? • HOW WEIGH THEIR TESTIMONY?

**MJEB
STUDY AID**

PAGE 5 OF 6

1 COMPETENCY (Pa.R.E. 601)

EVERY PERSON IS COMPETENT TO BE A WITNESS
unless a rule provides otherwise.



SEEKING A DETERMINATION OF INCOMPETENCY (Pa.R.E. 104)

If a party claims a witness is not competent, the MDJ must hold a hearing and determine competency before the witness may testify.



THE BAR IS LOW. INCLUDE, DON'T EXCLUDE.
Doubt goes to the weight, not the competency.

2 CREDIBILITY (Pa.R.E. 607, 608, 609)

CREDIBILITY IS FOR THE FACT-FINDER TO DECIDE.

Test the testimony. Weigh the truth.



OBSERVES DEMEANOR

Way of speaking,
body language,
attitude.



CONSIDERS MEMORY

Ability to recall
events clearly
and accurately.



EXAMINES CONSISTENCY

Compare testimony
with other evidence
and prior statements.



EVALUATES PLAUSIBILITY

Does it make sense?
Does it fit with
common experience?



LOOKS FOR BIAS OR MOTIVE

Does the witness
have a reason to
lie or exaggerate?



REVIEW PRIOR STATEMENTS

Inconsistencies may
affect how much
weight to give.

IMPEACHMENT TOOLS

Parties may challenge credibility using:



**PRIOR
INCONSISTENT
STATEMENTS**



**BIAS, INTEREST,
OR MOTIVE**



**REPUTATION FOR
TRUTHFULNESS
(RULE 608)**



**CRIMINAL
CONVICTIONS
(RULE 609)**



**COMPETENCY GETS THE WITNESS
IN THE DOOR.**



**CREDIBILITY DETERMINES
HOW FAR THEY GO.**

3 FACTORS THAT AFFECT CREDIBILITY (Examples)



TIME & OPPORTUNITY

Was the witness
in a position to
see, hear, or
know what they
testified about?



OBSERVATION CONDITIONS

Lighting, distance,
obstructions,
noise, stress, or
other conditions
may affect
perception.



MEMORY & ACCURACY

Memory fades.
Details change.
Strong memory
today doesn't
prove perfect
memory then.



CONSISTENCY OF TESTIMONY

Look for
consistency within
testimony and
with other
evidence.



MOTIVE & BIAS OF THE WITNESS

Financial interest,
friendship, animosity,
or self-protection
can influence
testimony.



CHARACTER FOR TRUTHFULNESS

Evidence of a
witness's general
reputation for
truthfulness
may be
considered.



EXPERIENCE & BELIEVABILITY

Demeanor,
intelligence,
experience, and
common sense
play a role.



REMEMBER

*The witness is not the evidence.
Test the testimony. Trust the truth.*



KEY TAKEAWAY

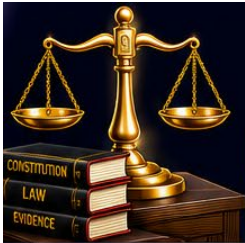
- ✓ Competency = ability to testify.
- ✓ Credibility = believability of the testimony.
- ✓ The fact-finder is the ultimate judge of credibility.

CREDIBILITY IS EARNED. TRUTH IS PROVEN.



**“ Not all testimony is equal. It is the fact-finder's job
to decide what they believe. ”**





WITNESSES: COMPETENCY & CREDIBILITY

**MJEB
STUDY AID**

PAGE 6 OF 6

WHO CAN TESTIFY? • HOW WEIGH THEIR TESTIMONY?



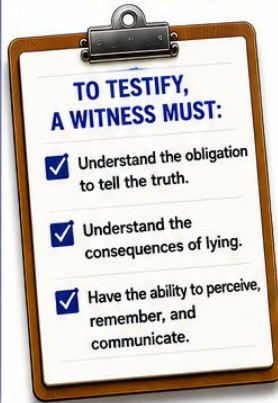
**COMPETENCY GETS THE
WITNESS IN THE DOOR.**



**CREDIBILITY DETERMINES
HOW FAR THEY GO.**

1 COMPETENCY (Pa.R.E. 601)

EVERY PERSON IS COMPETENT TO BE A WITNESS
unless a rule provides otherwise.



SEEKING A DETERMINATION OF INCOMPETENCY (Pa.R.E. 104)

If a party claims a witness is not competent, the MDJ must hold a hearing and determine competency before the witness may testify.



THE BAR IS LOW. INCLUDE, DON'T EXCLUDE.
Doubt goes to the weight, not the competency.

2 CREDIBILITY (Pa.R.E. 607, 608, 609)

CREDIBILITY IS FOR THE FACT-FINDER TO DECIDE.
Test the testimony. Weigh the truth.



OBSERVES DEMEANOR

Way of speaking,
body language,
attitude.



CONSIDERS MEMORY

Ability to recall
events clearly
and accurately.



EXAMINES CONSISTENCY

Compare testimony
with other evidence
and prior statements.



EVALUATES PLAUSIBILITY

Does it make sense?
Does it fit with
common experience?



LOOKS FOR BIAS OR MOTIVE

Does the witness
have a reason to
lie or exaggerate?



REVIEW PRIOR STATEMENTS

Inconsistencies may
affect how much
weight to give.

IMPEACHMENT TOOLS

Parties may challenge credibility using:



PRIOR
INCONSISTENT
STATEMENTS



BIAS, INTEREST,
OR MOTIVE



REPUTATION FOR
TRUTHFULNESS
(RULE 608)



CRIMINAL
CONVICTIONS
(RULE 609)

3 FACTORS THAT AFFECT CREDIBILITY (Examples)



TIME & OPPORTUNITY

Was the witness
in a position to
see, hear, or
know what they
testified about?



OBSERVATION CONDITIONS

Lighting, distance,
obstructions,
noise, stress, or
other conditions
may affect
perception.



MEMORY & ACCURACY

Memory fades.
Details change.
Strong memory
today doesn't
prove perfect
memory then.



CONSISTENCY OF TESTIMONY

Look for
consistency within
testimony and
with other
evidence.



MOTIVE & BIAS OF THE WITNESS

Financial interest,
friendship, animosity,
or self-protection
can influence
testimony.



CHARACTER FOR TRUTHFULNESS

Evidence of a
witness's general
reputation for
truthfulness
may be
considered.



EXPERIENCE & BELIEVABILITY

Demeanor,
intelligence,
experience, and
common sense
play a role.



REMEMBER

*The witness is not the evidence.
Test the testimony. Trust the truth.*



KEY TAKEAWAY

- ✓ Competency = ability to testify.
 - ✓ Credibility = believability of the testimony.
 - ✓ The fact-finder is the ultimate judge of credibility.
- CREDIBILITY IS EARNED. TRUTH IS PROVEN.**



“

*Not all testimony is equal.
It is the fact-finder's job to decide what they believe.*

”

