

N.C.P.I.-Civil. 101.38
EVIDENCE-INVOCATION BY WITNESS OF FIFTH AMENDMENT PRIVILEGE
AGAINST SELF-INCRIMINATION.
GENERAL CIVIL VOLUME
JUNE 2009

101.38 EVIDENCE - INVOCATION BY WITNESS OF FIFTH AMENDMENT
PRIVILEGE AGAINST SELF-INCRIMINATION.¹

The [plaintiff] [defendant] [witness, (*state name of witness*),] has invoked *his* constitutional Fifth Amendment privilege against self-incrimination and has refused to answer when questioned as to whether *he* committed (*state conduct as to which the Fifth Amendment privilege has properly been invoked*).

You may infer, though you are not compelled to do so, that the truthful response of the [plaintiff] [defendant] [witness] to the question, if given, would have been unfavorable to *him*. You may give this inference such force and effect as you determine it should have under all the facts and circumstances.

1. See *In re Estate of Trogdon*, 330 N.C. 143, 152, 409 S.E.2d 897, 903 (1991) (stating that “the finder of fact in a civil cause may use a witness’ invocation of his Fifth Amendment privilege against self-incrimination to infer that his truthful testimony would have been unfavorable to him”).