

Character Evidence and Objections

THREE-STEP ANALYSIS

1

Is there evidence of a person's character trait?

- No: There is no character evidence.
- Yes: See # 2.

Three Forms of Character Evidence:

- ★ Evidence of Prior Action
- ★ Opinion evidence
- ★ Reputation evidence



Habit evidence is evidence of something a person does routinely. Habit evidence is not character evidence.

Is the evidence being offered to show that the person acted in accordance with that character trait?

- No: There is no character evidence.
- Yes: See # 3.

Note: Evidence of a defendant's prior act may be used to show their motive, intent, knowledge, or identity.



2

Is there an applicable exception to the character evidence rule?

Exception #1: Evidence of Defendant's Character can be introduced by the defense. Prosecution can rebut only after defense opens the door.

Exception #2: Evidence of Victim's Character can be introduced by the defense.

Exception #3: Evidence of Any Witness's Character for Dishonesty can be introduced by either party. The opposing party can then rebut with evidence of the witness's honesty.

OBJECTIONS: WHAT TO SAY

- Objection. The question calls for character evidence.
- Your Honor, this is not evidence of a prior action that shows Mr. Smith's character. It is evidence of his habit of taking a walk around the neighborhood every evening. A daily walk is not indicative of any particular character trait.
- This is evidence of a prior action taken by Mr. Smith, which is offered to show that he acted in accordance with a character trait for violence.
- This evidence is not being offered to show a propensity for violence; it's being offered to show the defendant's motive.
- Your Honor, an exception to the character evidence rule applies. This is evidence of the defendant's character that is being offered by the defense.
- The prosecution may not offer evidence of the defendant's character until the defense opens the door this evidence. The defense has not done so.
- This evidence is admissible because Ms. Ridinghood is expected to be called as a witness and this evidence relates to her honesty.



Character Evidence Character Evidence

Michael Hoelscher



Character Evidence Character Evidence:

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