

**Rule Change 2007 (13)**

CHAPTER 33

COLORADO RULES OF EVIDENCE

RULE 404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE CONDUCT, EXCEPTION; OTHER CRIMES

RULE 408. COMPROMISE AND OFFERS TO COMPROMISE

And

RULE 606. COMPETENCY OF JUROR AS WITNESS

**RULE 404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE CONDUCT;  
EXCEPTIONS; OTHER CRIMES**

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**(a) Character evidence generally.** Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

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(1) **Character of accused.** In a criminal case, evidence ~~Evidence~~ of a pertinent trait of his character offered by an accused, or by the prosecution to rebut the same or if evidence of the alleged victim's character for aggressiveness or violence is offered by an accused and admitted under Rule 404 (a) (2), evidence of the same trait of character of the accused offered by the prosecution;

(2) **Character of alleged victim.** In a criminal case, evidence ~~Evidence~~ of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide case to rebut evidence that the alleged victim was the first aggressor;

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(3) **Character of witness.** Evidence of the character of a witness as provided in Rules 607, 608, and 13-90-101.

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**(b) Other Crimes, Wrongs, or Acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan,

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knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

#### **RULE 408. COMPROMISE AND OFFERS TO COMPROMISE**

(a) Prohibited uses. Evidence of the following is not admissible on behalf of any party, when offered to prove liability for invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

(1) furnishing or offering or promising to furnish, ~~or~~ (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a the claim which was disputed as to either validity or amount; and, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of

(2) conduct or statements made in compromise negotiations is likewise not admissible regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative, or enforcement authority. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations.

(b) Permitted uses. This rule also does not require exclusion when if the evidence is offered for another purpose, such as purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice of a witness,; negating negating a contention of undue delay; ~~or~~ and proving an effort to obstruct a criminal investigation or prosecution.

#### **RULE 606. COMPETENCY OF JUROR AS WITNESS**

(a) At the Trial. A member of the jury may not testify as a witness before that jury in the trial of the case in which the

~~juror he~~ is sitting ~~as a juror~~. No objection need be made in order to preserve the point.

**(b) Inquiry Into Validity of Verdict or Indictment.** Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith~~7~~. ~~But except that~~ a juror may testify ~~on the question about~~ (1) whether extraneous prejudicial information was improperly brought to the jurors' attention, (2) ~~or~~ whether any outside influence was improperly brought to bear upon any juror, or (3) ~~whether there was a mistake in entering the verdict onto the verdict form.~~ ~~Nor may his~~ A juror's affidavit or evidence of any statement by ~~the juror him concerning~~ may not be received ~~on~~ a matter about which ~~the juror he~~ would be precluded from testifying ~~be received for these purposes~~.

Committee Comment

Rule 606(b) has been amended to bring it into conformity with the 2006 amendments to the federal rule, providing that juror testimony may be used to prove that the verdict reported was the result of a mistake in entering the verdict on the verdict form. The federal amendment responded to a divergence between the text of the Rule and the case law that had established an exception for proof of clerical errors. See Fed. R. Evid. 606(b) advisory committee notes (2006 Amendments); see also Stewart v. Rice, 47 P.3d 316 (Colo. 2002).

**Amended and Adopted by the Court, En Banc September 27, 2007 effective immediately.**

**BY THE COURT:**

**Nathan B. Coats  
Justice**