

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.



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Table of Contents Character Evidence Character Evidence

1. Understanding the eBook Character Evidence Character Evidence
 - The Rise of Digital Reading Character Evidence Character Evidence
 - Advantages of eBooks Over Traditional Books
2. Identifying Character Evidence Character Evidence
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Character Evidence Character Evidence
 - User-Friendly Interface
4. Exploring eBook Recommendations from Character Evidence Character Evidence
 - Personalized Recommendations
 - Character Evidence Character Evidence User Reviews and Ratings

-
- Character Evidence Character Evidence and Bestseller Lists
 - 5. Accessing Character Evidence Character Evidence Free and Paid eBooks
 - Character Evidence Character Evidence Public Domain eBooks
 - Character Evidence Character Evidence eBook Subscription Services
 - Character Evidence Character Evidence Budget-Friendly Options
 - 6. Navigating Character Evidence Character Evidence eBook Formats
 - ePub, PDF, MOBI, and More
 - Character Evidence Character Evidence Compatibility with Devices
 - Character Evidence Character Evidence Enhanced eBook Features
 - 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Character Evidence Character Evidence
 - Highlighting and Note-Taking Character Evidence Character Evidence
 - Interactive Elements Character Evidence Character Evidence
 - 8. Staying Engaged with Character Evidence Character Evidence
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Character Evidence Character Evidence
 - 9. Balancing eBooks and Physical Books Character Evidence Character Evidence
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Character Evidence Character Evidence
 - 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 - 11. Cultivating a Reading Routine Character Evidence Character Evidence
 - Setting Reading Goals Character Evidence Character Evidence
 - Carving Out Dedicated Reading Time
 - 12. Sourcing Reliable Information of Character Evidence Character Evidence
 - Fact-Checking eBook Content of Character Evidence Character Evidence
 - Distinguishing Credible Sources

-
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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