

NOTICE TO THE BAR

AMENDMENTS TO THE NEW JERSEY RULES OF EVIDENCE (TO BE EFFECTIVE JULY 1, 2007)

Pursuant to *N.J.S.A. 2A:84A-35*, attached is the Supreme Court's Order of September 12, 2006 adopting amendments to Rules 608 and 404(b) of the New Jersey Rules of Evidence. The amendment proposal was presented at a public hearing conducted on May 23, 2006, in accordance with the requirements of *N.J.S.A. 2A:84A-34*. The April 4, 2006, report of the Supreme Court Committee on the Rules of Evidence, which presented the proposals acted on by the Court, was previously published for comment as part of the 2004-2006 rules cycle. Please note that although the Committee recommended that the primary amendment should be placed in N.J.R.E. 609, the Court concluded that it would be more appropriately allocated to N.J.R.E. 608(b). Further, the Court did not accept the Committee's proposal to expand the scope of the amendment to civil cases. Language limiting the rule to criminal cases was added by the Court, as was an official Commentary directing those who need to follow the rule to the Court's opinion in *State v. Guenther*, 181 *N.J.* 129 (2004).

The Court's Order notes that the effective date of the amendments is July 1, 2007. The action of the Court is subject to the terms of *N.J.S.A. 2A:84A-36*.

/s/ Stephen W. Townsend
Stephen W. Townsend,
Clerk of the Supreme Court

Dated: September 15, 2006

SUPREME COURT OF NEW JERSEY

It is ORDERED that, pursuant to N.J.S.A. 2A:84-33 and 2A:84A-36, the attached amendments to Rule 608 and Rule 404(b) of the New Jersey Rules of Evidence are adopted, to be effective July 1, 2007.

For the Court,

/s/ Deborah T. Poritz

C. J.

Dated: September 12, 2006

Rule 608. Evidence of Character for Truthfulness or Untruthfulness and Evidence of Prior False Accusation

(a) The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, provided, however, that the evidence relates only to the witness' character for truthfulness or untruthfulness, and provided further that evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise. Except as otherwise provided by Rule 609 and by paragraph (b) of this rule, a trait of character cannot be proved by specific instances of conduct.

(b) The credibility of a witness in a criminal case may be attacked by evidence that the witness made a prior false accusation against any person of a crime similar to the crime with which defendant is charged if the judge preliminarily determines, by a hearing pursuant to Rule 104(a), that the witness knowingly made the prior false accusation.

Note: Adopted September 15, 1992 to be effective July 1, 1993; caption amended, text redesignated as paragraph (a) and amended, and new paragraph (b) adopted September 12, 2006 to be effective July 1, 2007.

Court Comment (September 12, 2006)

The application of Rule 608(b) is limited to criminal matters and is subject to the provisions of *State v. Guenther*, 181 N.J. 129 (2004).

Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes Evidence

(a) ... no change

(b) Other Crimes, Wrongs, or Acts. Except as otherwise provided by Rule 608(b), evidence [Evidence] of other crimes, wrongs, or acts is not admissible to prove the disposition of a person in order to show that such person acted in conformity therewith. Such evidence may be admitted for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident when such matters are relevant to a material issue in dispute.

(c) ... no change

Note: Adopted September 15, 1992 to be effective July 1, 1993; paragraphs [Paragraphs] (a) and (b) amended September 15, 2004 to be effective July 1, 2005; paragraph (b) amended September 12, 2006 to be effective July 1, 2007.