

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE IV. RELEVANCY, POLICY, AND CHARACTER TRAIT PROOF

Rule 2:408 ~~COMPROMISE AND OFFERS TO COMPROMISE~~ AND CONDUCT OR STATEMENTS DURING NEGOTIATIONS.

~~Evidence of offers and responses concerning settlement or compromise of any claim which is disputed as to liability or amount is inadmissible regarding such issues. However, an express admission of liability, or an admission concerning an independent fact pertinent to a question in issue, is admissible even if made during settlement negotiations. Otherwise admissible evidence is not excludable merely because it was presented in the course of compromise negotiations. Nor is it required that evidence of settlement or compromise negotiations be excluded if the evidence is offered~~

(a) *Prohibited Uses.* Evidence of the following is not admissible on behalf of any party in a civil case – either to prove or disprove the validity or amount of a disputed claim, or to impeach by a prior inconsistent statement or by contradiction:

(1) furnishing, promising, or offering – or accepting, promising to accept, or offering to accept – a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or any statements made during compromise negotiations about the claim.

(b) *Exceptions.* The court may admit such evidence for another purpose, such as proving a witness's bias or prejudice ~~of a witness~~ or negating a contention of undue delay.

(c) *Pre-existing documents or physical evidence.* Otherwise admissible evidence that existed prior to the commencement of compromise negotiations, including pre-existing documents or electronic communications, is not excludable under this Rule merely because such evidence was disclosed, produced, or discussed by a party during such negotiations.

**Adopted and promulgated by Order dated June 1, 2012; effective July 1, 2012.
Last updated by Order dated October 30, 2015; effective July 1, 2016.**