

**Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

***Committee Comment - 1977***

*This rule along with Rule 102 provides the guidance for the proper application of these rules. Rule 403 sets forth the appropriate considerations that must be addressed in resolving challenges to the admissibility of relevant evidence. The rule creates a balancing test. Probative value is balanced against other considerations of policy, fairness, and convenience. The rule favors the admission of relevant evidence by requiring a determination that its probative value be "substantially" outweighed by the dangers listed in the rule before relevant evidence will be excluded.*

*Conspicuously missing from the proposed rule is the exclusion of relevant evidence on the basis of surprise. Even with modern discovery methods the question of surprise may still come up in litigation but a continuance rather than the exclusion of the evidence is deemed to be the better method of handling such a case. Minnesota cases list surprise as a basis for excluding otherwise relevant evidence. However, few if any reported cases have excluded relevant evidence on this ground. Cf, State v. Spreigl, 272 Minn. 488, 139 N.W.2d 167 (1965), (new trial ordered essentially on a surprise analysis.) Otherwise the rule is consistent with existing Minnesota practice. State v. Gavle, 234 Minn. 186, 208, 48 N.W.2d 44, 56 (1951); State v. Haney, 219 Minn. 518, 520, 18 N.W.2d 315, 316 (1945).*