

EVIDENCE OF OTHER CRIMES (*MOLINEUX*)¹

There is evidence in the case that, on another occasion, the defendant [(engaged in criminal conduct) (was convicted of a crime) or (*specify*)]. That evidence was not offered, and must not be considered, for the purpose of proving that the defendant had a propensity or predisposition to commit the crime(s) charged in this case.² It was offered as evidence for your consideration on the question of (*specify*). If you find the evidence believable, you may consider it for that limited purpose and for none other.³

1. See *People v. Molineux*, 168 N.Y. 264 (1901) (*Molineux* evidence may be admitted, for example, to establish motive, opportunity, intent, preparation, common scheme or plan, identity, absence of mistake or accident).

2. See *People v. Mees*, 47 N.Y.2d 997 (1979)

3. In appropriate circumstances, it has been held permissible for a court to allow the introduction of evidence of uncharged crimes to prove, among other things, the defendant's identity as the perpetrator of the charged crime (see, e.g., *People v. Beam*, 57 N.Y.2d 241 [1982]; *People v. Alexander*, 294 A.D.2d 118 [1st Dept. 2002]), his motive for committing it (see, e.g., *People v. Mees*, 47 N.Y.2d 998 [1979]; *People v. Barnum*, 169 A.D.2d 887 [3rd Dept. 1991], lv. denied 77 N.Y.2d 958), his intent while doing so (see, e.g., *People v. Bayne*, 82 N.Y.2d 673 [1993]; *People v. Scotti*, 232 A.D.2d 775 [3rd Dept. 1996], lv. denied 89 N.Y.2d 946), his guilty knowledge (see, e.g., *People v. Marrin*, 205 N.Y. 275, 281-282 [1912]; *People v. Spitaleri*, 231 A.D.2d 593 [2nd Dept. 1996], lv. denied 89 N.Y.2d 867), or that his actions were taken in concert with another (see, e.g., *People v. Carter*, 77 N.Y.2d 95, 107 [1990], cert. denied 499 U.S. 967; *People v. Jackson*, 39 N.Y.2d 64, 68 [1976]), or were part of a common scheme or plan (see, e.g., *People v. Duffy*, 212 N.Y. 57, 66-67 [1914]; *People v. Fiore*, 34 N.Y.2d 81 [1974]; *People v. Smith*, 283 A.D.2d 189, 190 [1st Dept. 2001], lv. denied 97 N.Y.2d 643), or were not the product of accident or mistake (see, e.g., *People v. Henson*, 33 N.Y.2d 63, 72 [1973]; *People v. Taylor*, 220 A.D.2d 705 [2nd Dept. 1995]).