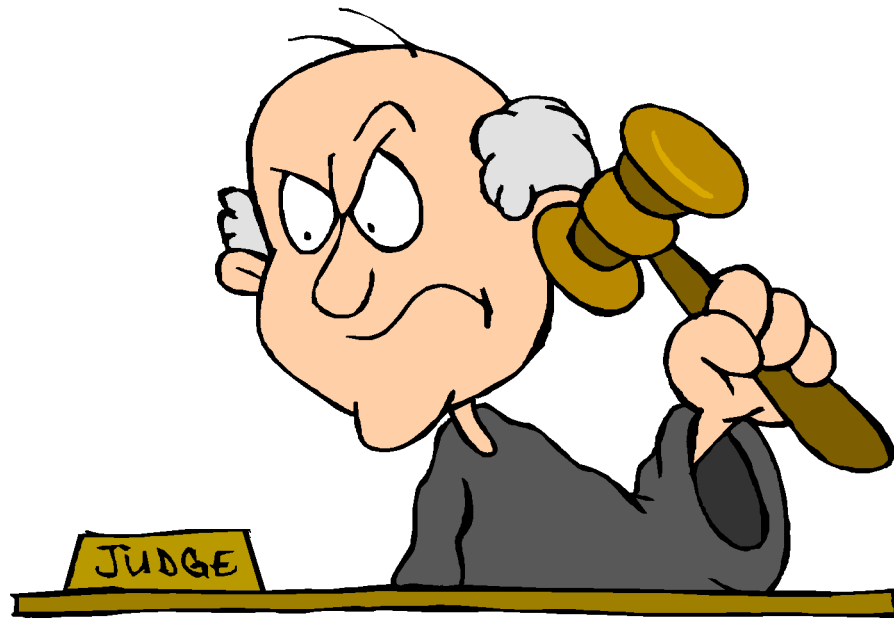




Objections

Preserving Your Right to Appeal

Table of Contents

Table of Contents	2
Objections	3
Purpose.....	6
When to Object	12
Timeliness	15
Objections at Depositions	20
Rulings	22
Renewing Objections	25
Classes.....	28
Evidence Rule Violations	28
Procedural Rule Violations.....	29
General Law Violations	30
Polity and Precedence Violations	30
Asked & Answered	33
Badgering.....	36
Best Evidence Rule	40
Competence.....	44
Counsel Testifying.....	48
Facts Not in Evidence	51
Hearsay	55
Outside the Pleadings.....	58
Prejudice	62
Qualifications.....	64
Relevance	67
Speculation.....	70
Conclusion	74



Objections

Judges are supposed to play by the rules!

Lawyers are also supposed to play by the rules!

If you've been studying the materials
you also know that *pro se* litigants (i.e., people who have no
lawyer to represent them in court) are supposed to play by the rules!

It's the American way!

It's what's fair!

It's how the game of litigation must be played.

So, whose rules do we play by?

And, what can you do when someone breaks those rules?

The answer is simple ... *and very important for you!*

The rules are the rules of the court, and when someone breaks them – judge,
lawyer, or litigant – we make an objection on the record and move the court to rule on
our objection.

Get that?

We make an objection!

And, if the court does not rule on our objection, we move the court to *rule* on our
objection ... sustained or overruled.

One way or the other.

Silence isn't good enough.

We do this to make our record for a possible appeal.¹

If we don't object, we cannot later complain to an appellate court that we lost our
case because the judge did not enforce the rules. If the judge does not rule on your
objections, it is as if you never objected.

We work diligently to make our record for appeal, *because by doing so we
significantly reduce the likelihood that we'll be required to appeal!*

This is the method for winning lawsuits.

¹ Explained in detail later on.

When litigants prepare for appeal at every phase of their lawsuit, judges are much less likely to rule against them ... *simply because judges don't like to be appealed!*

If we don't make *timely* objections (more on timeliness later) and get a ruling on our objections, we lose our right to complain to an appellate court that the judge allowed a rule to be broken ... so we lose *two ways!*

We lose firstly because by failing to object we let the judge know we cannot win on appeal, so he knows he can rule any way he wishes without fear of being reversed.

Secondly, we lose because the appellate courts will *not* consider your objection if it is raised for the first time on appeal.

Objections must be made in the lower court, or the right to object is forever lost.

Winning is all about preparing for appeal.²

In this little book you'll learn some of the more commonly encountered objections and the circumstances that trigger them.

You'll learn the different types of objections.

You'll learn how to get your objections on the court's record.

You'll learn why it's critically important to move the court to rule on objections, how to move the court to rule on your objections if the court refuses to rule on them, and what to do if the court refuses to rule after being moved to do so.

This tutorial cannot list every possible objection because (as you will learn) the opportunities for a judge or opposing party to go beyond the boundaries set by the rules of our American System of Justice are "limitless". Judges make mistakes. Lawyers on the other side will try to get away with as much as possible to win for their clients, and you must use your objections to force the judge to stop opposing counsel from breaking the rules.

In the final analysis, however, it is the *judge's* errors, not the errors of the other side, that form the basis for your appeal (if appeal is needed). Keep this in mind as you make objections. Even when you object to an error on the part of the other side, what you are aiming at is to force the judge to do his duty – and, if he doesn't, to make a record of *his* error – for it is the judge's errors that will be examined by the appellate court – *if you object properly and in a timely manner during proceedings in the lower court!*

² Much more about this later.

While most objections result from violations of the rules of evidence or rules of procedure, objections should also be made whenever a judge or opposing party violates *any* of our American principles of justice:

- provisions of the Constitution of the United States,
- provisions of the constitution of the state in which the court is sitting,
- statutory legislation enacted by Congress or your state's legislature,
- appellate court decisions that control the lower court proceedings,
- the rules of procedure,
- the rules of evidence, or
- just plain common-sense and decency.

As you can see from the foregoing, the opportunities for objections are limitless.

This tutorial, however, will explain the most common objections you'll encounter and how to handle them. You will gain a working understanding of objections in general, how to watch for violations that require an objection, and how to make certain you are preserving an effective record for appeal ... *so you minimize the chance of appeal being necessary while insuring that if appeal is necessary it will be successful.*

Appeals are won *only* by showing the appellate court that the lower court judge made errors harmful to your cause. The appellate court will review these errors *only* if you object to them at the time they are made (or as soon thereafter as possible) so your objections and the judge's errors are preserved in the official record for review.

Leave no stone unturned.

Leave no error un-objected.

Purpose



Lawsuits are nothing like a hockey game, where a player's bitter objections have little or no effect on the referee.

In a hockey game, if a player has a beef, he can complain to the referee until he is benched, and that will be the end of it.

In a lawsuit, complaints to the referee are called "objections", and they *do* have an effect.

Unlike a hockey referee, courtroom judges *do* listen to objections. Many times, after an objection is made, they will listen to both sides and make decisions that determine the outcome of the case – win or lose!

Fail to make your objections effectively, and you run the risk of losing your case!

When you're engaged in a bitter courtroom battle, the other side will play every trick in the book to win. Expect it. Lawyers are trained to push the limits, and many of them will intentionally break the rules to get what they want. You must be on your toes at all times, anticipating that the other side will resort to unfair tactics whenever possible.

Don't count on the judge to interfere!

Most of the time he won't.

If you don't object, the errors will be made, and you won't be permitted later to object for the first time when you file an appeal after losing.

Many judges just sit back and let the two parties battle it out between themselves with little or no interference.

Unlike the referee who "calls 'em as he sees 'em", judges may remain silent when the other side crosses the line.

It may surprise you to learn that much of the time you'll look up to find the judge fiddling with the laptop computer on his bench or staring out the window. I even caught

one reading his newspaper during an important hearing.³

It's *your* job to speak up.

It's *your* job to toss a red flag when your opponent commits a foul.

"Objection!" stops the proceedings until the judge rules.⁴

"Objection!" calls foul on the other side ... and sometimes calls foul on the judge!

Failure to object lets fouls go unnoticed – and prevents you from complaining later to an appellate court that those errors caused you to lose. If you don't object to an error when the error is made (or as soon thereafter as possible), there is no record you called the judge's attention to it so he could rule. The appellate courts will not hear your objection for the first time on appeal. If you don't object during proceedings in the lower court, you lose your right to appeal the errors that caused you to lose!⁵

Objections are essential to the process of winning. Unlike what happens at the end of a hockey game when the score is tallied and the winner declared, if you lose your case in court but made effective, timely objections every time the judge made the errors that hurt your cause, you get a second chance to win on appeal!

This is only true, however, *if you preserve your objections on the record*.

When a hockey game is over, the game is over.

When a lawsuit is over – if harmful errors were made – *and you objected properly to those errors and did so in a timely manner* – the final score may be revisited by a panel of appellate justices who will review the judge's errors and, if they agree with what you say in your appellate brief, may reverse the lower court's ruling or send the case back for another round of play.

Proper and timely objections are essential to winning lawsuits.

Before we begin examining some of the more common objections encountered in the typical lawsuit, I wish you to clearly understand the purpose for making them. It may seem redundant, but *nothing* teaches is more important for you to know *and* understand.

³ That's why we teach you to get the judge's attention when you're speaking in court. Make eye-contact. If the judge isn't looking at you, it's likely he isn't listening either. It's your lawsuit. If you want to win you *must* take responsibility for everything that happens in the courtroom ... and that includes getting the judge to pay attention to the proceedings.

⁴ More on this later.

⁵ I repeat this because it is critical for you to concentrate all your energies on making an appealable record.

Winning lawsuits is nothing more or less than a process of preparing for appeal. Good lawyers (i.e., lawyers who consistently win lawsuits) know this. Winning is simply a process of presenting your case by (1) pleadings, (2) proof, and (3) procedure protected by the process of making a record of every error made by the judge.

We make a record of the judge's errors by objecting and forcing the judge to rule on our objections or, if the judge refuses to rule, by objecting to that as well.

Fail to make an appealable record, and you give the judge freedom to rule any way he wants.

It will make no difference that you had the law and facts on your side.

It will make no difference if your Constitutional rights are violated.

It will make no difference if you are denied due process.

If an appealable record is not made and the judge has some corrupt motive to rule against you in spite of the facts and law you present, you cannot win on appeal. That may sound harsh, but that's the way it is! Get used to it. Prepare for it. Conduct your case the way.

Make your record for appeal or risk losing and being unable to appeal.

Only by preparing for appeal can you control the judge by making him see clearly that a panel of appellate judges will have no difficulty correcting his errors!

Judges don't like to be reversed on appeal. It's embarrassing. Their fellow judges will ridicule them for it. That works in your favor.⁶

This business of preparing for appeal to win a lawsuit doesn't seem logical at first, however that is *exactly* what you must do to insure victory in court.

Everything is aimed at preparing a court record that – *if the judge should rule against you* – will give you powerful appellate ammunition you can use to present the higher court with a clear record of the lower court judge's errors.

Many people believe you can appeal any time you lose in the lower court. They think you always have that second appellate bite at the judicial apple. This is not true!

The only way to win on appeal is to show the appellate court justices that the

⁶ By the way, you must *never* let a judge think you haven't the means or will to appeal. Polish your shoes. Wear expensive neckties. Dress in your finest clothes and carry yourself with a regal bearing, lest the judge perceive that you haven't the financial strength to appeal – in which case he may decide he is free to rule any way he pleases, knowing you won't be able to do anything about it afterward.

lower court judge made a harmful error⁷ and overruled or ignored your objections. That's what gives the appellate court power to reverse the lower court's decision or remand the case for further proceedings consistent with the appellate court's directions.

It's a favorable Catch-22.

So, you see, the purpose for objections is to preserve the court's errors for appeal.

If you don't object, the judge may rule against you, knowing you don't have a snowball's chance of winning on appeal. You can have the facts and law on your side. You can make better arguments than your opponent. You can call better witnesses. You can do everything in perfect order. But, if you do not make an appealable record you give the judge a free hand to rule any way he wants ... and corrupt judges will do just that!

On the other hand, if you do what _____ teaches and plan every step to create a clear record for appeal, the judge will see that ruling against you will result in his order being *successfully* appealed. An embarrassing outcome for him.

By creating an effective record for appeal (objecting whenever the judge makes or allows an error), the gorilla in the black robe knows he can be reversed or have your case remanded back to him with embarrassing instructions telling him to do things differently.

His friends will talk about him behind his back. If he is appealed more often than his peers, he'll get a reputation for being incompetent at best. If the errors are severe, he will become thought of as a corrupt judge ... losing his standing in the community and, possibly, being removed from the bench in disgrace.

Wise litigators are constantly on guard to make clear on the record that the judge is crossing the line or allowing the other side to do so.

Objections get the judge's errors in the record.

Without them, appellate courts will not interpose their own opinions.

No objections?

No appeal!

Without effective objections the record is punctured with gaping holes or packed with damning evidence that could have been kept out by timely objections.

Countless lawsuits involving good people with winnable cases based on just facts and solid law are lost every day simply because the side that should have won failed to

⁷ Harmful errors are those that materially affect the outcome contrary to the rules of justice.

object on time and get the court to rule.

Testimony is admitted (or excluded).

Rules are violated.

Essential points of law are ignored.

And, good people lose their cases ... *needlessly!*

All because objections were not made to prevent the record from being polluted with errors and the fruits of improper procedures.

When the record is clear and complete, our American Legal System tends to favor the “good guys” each and every time. Once you learn the _____ method and apply it effectively in court, you will discover this is true. The rules of our American system of justice favor those who *should* win ... if they use proper pleadings, proof, and procedure to create an effective appealable record in the lower court proceedings.

To emphasize the importance of objections, see what the United States Supreme Court said with regard to Miranda warnings police officers are supposed to give before questioning a suspect. “In the Miranda case this Court promulgated a set of safeguards to protect the there-delineated constitutional rights of persons subjected to custodial police interrogation. In sum, the Court held in that case that unless law enforcement officers give certain specified warnings before questioning a person in custody, and follow certain specified procedures during the course of any subsequent interrogation, any statement made by the person in custody cannot *over his objection* be admitted in evidence against him as a defendant at trial, even though the statement may in fact be wholly voluntary.” Michigan v. Tucker, 417 U.S. 433, 443 (1974). [emphasis added]

Failure to object allows the court to consider statements made *before* the prisoner was Mirandized.

Failure to object may waive the right to object later.

Failure to object can be fatal!

When in doubt – *object!*

Too many people complain they didn’t get a fair deal in court and insist, “All the courts are all corrupt.” In fact, this is not true, however much some people complain about losing and, therefore, feel a need to blame their loss on anyone but their own lack of procedural knowledge. There are corrupt judges. Make no mistake about that. But not all

judges are corrupt, nor are the majority corrupt, as many losers insist. Analyze the record of such lost cases and, for the most part, you will find the losers failed to make effective records for appeal, couldn't afford to appeal, or simply didn't have a winnable case in the first place.

So!

Make an appealable court record and minimize the necessity of appealing.

That's how you win!

When to Object



The answer is simple – Before it’s too late!

The time to object is *every* time you think objection is likely to favor your case.

Wait too long, and the opportunity may be lost.

Wait too long, and irreparable damage may be done.

Wait too long, and your objection may be useless.

There are several things to consider on this subject of timeliness. For the sake of winning your own lawsuit, study to *clearly* understand these points.

Too late is too late!

However, jumping to your feet with that impressive-sounding word “Objection!” is not likely to have any effect whatever if you aren’t prepared to state the grounds for your objection (in spite of the frequency you see this happening in movies or on TV).

Objecting without knowing the grounds for your objection probably won’t do you any good at all (unless the judge automatically sustains your objection without asking why you made it). Occasionally you may get away with this, just like TV lawyers who are rarely required to state the grounds for their objections. Usually, however, you need to know why ... i.e., the legal grounds for your objection ... a description of the error to which you are objecting.⁸

Some objections are so obvious you may not be required to state the grounds.

For example, if opposing counsel is badgering the witness in a particularly violent way, your objection will likely be sustained without explanation. The judge knows the witness is being badgered. If she is a good judge she’ll not stand for it in her courtroom, so your single-word “Objection!” will stop the badgering ... *without explanation*.

Other objections will not be obvious.

In many cases the opposition will demand that you state the grounds for your objection. If you are unable to explain why you are objecting, the judge may safely overrule.

This little book will help you prepare to answer when required to do so.

What if you “feel” like an objection is needed to prevent the record from being unjustly polluted, but you can’t think of the legal grounds for making it?

What do you do?

Do you sit helplessly by and let the error do its damage?

No!

Never!

Object anyway!

The worst that can happen is the judge will ask for your grounds, and you’ll have to say, “I can’t think of the grounds right now, your Honor, but I want my objection on the record anyway!”

That may sound embarrassing, but appellate courts have on occasion held that it’s better to object, even when you cannot state the grounds for your objection, than to let an error slip by without the record being any wiser for it.

Better by far if the word “Objection!” appears in the record for appellate justices to review on appeal, than to silently let the error corrupt the record while your opponent gains the upper hand unjustly.

Besides, some judges may have the same “feeling” you do at the time you object. They may sustain your objection without requiring you to state your grounds.

So, you see, the time to object is *every* time you think an objection favors your cause.

Which brings us to another point.

If an objection is not going to favor your cause, *don’t object!*

At depositions, hearings, or trial there will be times when the opposition asks a leading question of his own witness, for example, an objectionable offense⁹. Suppose you want the court to hear the answer. Suppose the answer isn’t going to affect your cause in the slightest.

Why object?

⁹ As explained elsewhere in our complete step-by-step lawsuit self-help course, one cannot ask leading questions of one’s own witnesses, except in extreme circumstances. To do so triggers an objection.

Let the testimony (or other matter) proceed *if you're certain it won't adversely affect your cause*.

Objecting just for the sake of hearing yourself pronounce that imposing-sounding word in court may work against you. The judge may get tired of seeing you bouncing up and down, piping up every possible chance you get. The “wolf” syndrome may set in. The judge may decide you’re wasting the court’s time. Then, when a serious error is about to occur and you jump to your feet with your objection, the court may believe you are merely crying “wolf” once again and overrule what otherwise might have been a successful *and much-needed* objection. The objectionable testimony (or other matter) will be allowed, and the record will be polluted against you.

Still in all, if you believe an objection is necessary to prevent the record from working against you, jump to your feet at once and “Object!” ... even if you don’t know the grounds.

By the time you complete this little book (and, hopefully, our complete course), you will be familiar with the more common grounds for objection ... and have a far better sense of when to object and when not to.

If in doubt, however, “Object!”



Timeliness

Timeliness is *everything*!

Imagine you're trying a case riding on the single issue of whether or not a doctor removed someone's kidney.

The other side calls a recovery room nurse to the stand.

"Tell the court, young lady, what Dr. Cornball said as he left the operating room that day."

"Why, he said the patient's kidney was too cancerous to remove," the soft-spoken nurse replies.

"So, he didn't remove the kidney?" the lawyer inquires.

"No, sir."

"Please tell the court what the doctor was thinking by leaving that cancerous kidney inside Mr. Sickman's body that day," the lawyer goes on, while you sit there thinking about what you're going to ask when it's *your* turn to question the witness, or whether you put enough quarters in the parking meter outside.

"He probably thought Mr. Sickman was going to die anyway," the nurse answers, as your case goes down the drain.

Ooops!

GIANT OOOOOPS ! ! !

You have probably lost ... *needlessly*.

Can you count the errors in that short examination of the nurse?

Do you see how many objections *should* have been made?

Do you see the *irreparable harm* done by allowing the nurse to testify as she did?

Let's go back over it.

First objection is, "Hearsay". The nurse should not be permitted to testify to what someone else said about something, if what was said by someone else is being offered to prove what that someone said is true. That's what hearsay is: An out-of-court statement offered to prove the truth of what was said out-of-court by someone who is not available to be cross-examined.

Second objection is, “Competence”. The recovery room nurse has no first-hand knowledge whether the kidney was removed or not. She wasn’t in the operating room at the time. She was in the recovery room. All she knows is what she learned from others. She lacks competence to testify as to whether or not the kidney was removed.

Third objection is, “Calls for speculation”. That nurse has no way of knowing what the doctor was thinking. She may describe facial expressions or other outward behavior that she can experience first-hand, however it is impossible to have first-hand knowledge of what someone else is thinking. Witnesses should *never* be allowed to testify to what someone else was thinking or feeling. Such testimony calls for speculation, because we can only “speculate” as to what’s going on inside someone else’s mind. We cannot have first-hand knowledge of another’s self. Our thoughts are uniquely our own.

We’ll examine the basis for each of these objections and many others in later chapters. For now I want you to see why you must (1) be wide awake at all times, (2) anticipate the need for *timely* objections, and (3) object immediately to make your record for appeal.

I recall a 3-day deposition of the wife of one of my wealthier clients during which opposing counsel repeatedly tried, in every imaginable way, to trick her into disclosing confidential communications her husband may have shared with her about his business. He was an honest business man, but the other side was convinced he’d done something dishonest to make his millions. They determined to dig into matters beyond the scope of lawful discovery¹⁰.

My client’s wife was not a party to the lawsuit. She was merely a witness from whom they hoped to learn something about my client’s hotels, apartment buildings, and substantial sums of cash on deposit in several banks ... information that would open a can of worms in a case that was already complex enough to keep me busy putting out other evidentiary fires.

As you know, neither spouse can be compelled to testify as to matters discussed

¹⁰ The scope of discovery is limited to facts reasonably calculated to lead to admissible evidence which, in turn, must be *relevant* to the case at hand. Fishing expeditions are disallowed.

between the two of them in confidence¹¹.

Plaintiff in this case was the Canadian government. Canadian “due process” does not recognize the spousal privilege we cherish in our American courts.

My client’s wife, however, was not Canadian, and the deposition was not being held in Canada. She was a U.S. citizen residing in Florida. The deposition was held in Orlando.

Questioning went something like this.

The Canadian lawyer asked, “How long did you live in Canada with your husband?”

I instructed her before the deposition to count to ten before answering questions, *so I’d have time to interrupt with an objection if needed*. I also drank many cups of black coffee those three days to keep me wide awake, anticipating objectionable questioning that would need my immediate response. Her counting to ten would give me time to think *before she could volunteer harmful information*.

For this question, of course, no objection was necessary. So, she answered (after counting to ten), “Eighteen years.”

“And, when your husband closed his business, what reasons did he give you?”

“Objection!” I chimed in before my client’s wife counted ten. “Spousal privilege! You are asking her to testify to content of communications received from her husband in confidence contrary to our evidence code.”

“We don’t have that rule in Canada,” came the arrogant rejoinder, as the young lawyer peered pompously over the rim of her glasses and drummed impatiently on the table with her pencil.

“Well,” I calmly replied, speaking slowly while eyeing the court reporter to make certain what I said was being transcribed accurately for the record, “you aren’t in Canada at present. You are in Orlando, Florida, and we will follow the rules that apply here, not those that control in Canada. My client’s wife will not testify to any fact communicated to her by her husband in confidence.”

You may imagine the further hateful looks and pencil-drumming that followed during three days of depositions as I repeatedly refused to allow their many similar

¹¹ You’ll understand much better after completing our one-weekend step-by-step lawsuit self-help course.

questions to be answered.

They threatened.

They scowled.

They remonstrated in the most intense fashion imaginable.

They tried their dead-level best to sneak one in on me when they thought I'd wandered off in a daydream. At one point they began a long line of questioning her about her fur coats, diamonds, and original oil paintings hanging in their luxurious Canadian home, then tried to sneak in another question about my client's properties.

I had a job to do.

I objected once again.

I was making an appealable record and protecting my client.

You must do the same.

Learn from how to protect yourself by being at-the-ready and at all times prepared to object *before* anything is said or done that would allow the court's record to be polluted against you.

Once the cat is out of the bag ... you cannot un-ring the bell.

Please imagine how many more times and how many more different and inventive ways those Canadian lawyers tried to trick us into giving the testimony they wanted. All day for three grueling days they kept at it. They asked everything from her favorite sports to how often they had guests for dinner (none of which had any bearing on the case) just so they could sneak a question here and there to learn what her husband might have told her about his business ... *always hoping I'd be thinking of something else and miss their game.*

That's why I drank black coffee and paid close attention to every question.

That's why I had my client's wife count to ten.

I had to object or lose the right to do so.

I had to object *before* the answer blurted out by accident.

Once a witness starts testifying as to privileged facts *without timely objection* the court may rule the right to object has been waived.

The privilege can disappear.

No appeal can cure such errors if the errors are yours!

“The requirement of a contemporaneous¹² objection is based on practical necessity and basic fairness in the operation of a judicial system. It places the trial judge on notice that error may have been committed, and provides him an opportunity to correct it at an early stage of the proceedings. Delay and an unnecessary use of the appellate process result from a failure to cure early that which must be cured eventually.” Calhoun v. State, 721 So.2d 1180 (Fla. 1st DCA 1998).

The United States Supreme Court has written, “[The] contemporaneous-objection requirement, serves a well-recognized and legitimate state interest: avoiding flawed trials and minimizing costly retrials.” Smith v. Texas, 05-11304 (U.S. 4-25-2007).

If a contemporaneous objection is not made, an appellate court may refuse to hear your appeal from the error.

Timeliness *is* everything!

Still, better late than never.

If you don’t think to make your objection until the cat is already out of the bag, object anyway.

It won’t hurt you.

And, it may save the day.

The best timing, of course, is to object *before* the error whenever you can.

¹² Made at the time of the error, or as closely thereafter as reasonably possible under the circumstances.



Objections at Depositions

In many jurisdictions you may not be required to state the grounds for objections during a deposition¹³.

Instead you, “Object to the form,” or make some similar statement that preserves the record without specifically stating grounds for your objection.

Since there is no judge at a deposition¹⁴, grounds for objections must be deferred to a later time when a judge can consider the grounds upon motion of the objecting party.

If possible, however, give the grounds for your objection at depositions, such as, “Objection. Calls for speculation. The deponent cannot testify to what Dr. Pill Popper was thinking when he prescribed Prozac for the defendant’s daughter.”

Expect a battle with opposing counsel at nearly every deposition. The typical lawyer will argue over every little detail, because there is no judge present to stop him. He will do all he can to intimidate you and, in many instances, go to great lengths to intimidate or confuse the deponent witness to get testimony that will hurt your case.

If the opposing lawyer takes any action whatsoever that is inappropriate or in any way contrary to the rules, object and state your grounds ... or, if local rules require you *not* to state your grounds during the deposition, say, “Object to the form,” or whatever substitute for stating the grounds is used in your jurisdiction.

If the lawyer drums his pencil demandingly on the table, leans threateningly over the table toward the deponent, or makes menacing faces as he asks his questions, it’s a simple matter to make your record by saying, “Let the record reflect that counsel for the defendant is trying to intimidate the deponent by drumming his pencil and leaning across the table with a menacing stare. Plaintiff objects that counsel is badgering the deponent.”

You aren’t going to make any friends this way, but lawsuits are not designed as a place to make friends.

¹³ Consult the local rules for your state or federal court.

¹⁴ In rare cases and for good cause depositions may sometimes be taken with a judge and bailiff present, such as when the safety of an individual is in jeopardy or some other circumstance requires it. At such times, objections should be supported with grounds, and the judge should be moved to rule on each such objection before proceeding to the next question.

Remember that pencil-drumming, leaning across tables, and making threatening faces cannot be recorded by the court reporter at a deposition. So, if you wish to preserve your objection to such errors for appeal, you must describe the objectionable actions and make it clear on the record that you object to same.

Indeed, if such tactics are not curtailed after your objection, you should consider terminating the deposition until you can bring the abuses to the attention of the judge. If objection alone doesn't stop the other side's unfair and unprofessional practices, threat of terminating the deposition to telephone the judge usually will. I've done this dozens of times and always with the desired effect. The nonsense stops.

As with any proceeding, failure to object at a deposition may waive your right to object later when the other side offers to use evidence obtained at the deposition.

As at trial and hearings, be prepared to object contemporaneously and, if the rules allow in your jurisdiction, state the grounds for your deposition objections.



Rulings

In many jurisdictions, *preserving* your objections requires you to move the court to rule on them ... if the court doesn't voluntarily rule on its own.

The judge needs to decide.

For example, suppose opposing counsel asks his witness a leading question¹⁵, "Isn't it a fact you were standing on the corner of Main and Elm at 2:30 the day of the accident?"

"Objection. Leading," you chime in.

The judge says nothing.

The witness goes ahead and answers the leading question.

If you do nothing, your objection may be worthless.

You must take an assertive stance when fighting in court.

Do not be afraid of the judge!

Do whatever must be done to make your winning record for appeal ... or you will regret not doing so when it's too late to fix the error.

If a judge fails or refuses to rule at the time you object, move the court to rule on your objections.

This makes the record *clear*!

This shows the judge did not overlook or merely fail to hear your objection but that he *intentionally refused to rule*!

This is judicial error on its face!

Appellate courts do not like to see it and will react favorably to you, if you make it clear the judge wasn't simply hard-of-hearing or thinking of something else at the time when you stated your original objection.

If the court fails to rule, move it to do so.

Say, "Plaintiff moves the court to rule on plaintiff's objection!"

Or, if you're a defendant, "Defendant moves the court ..., &c."

¹⁵ You generally cannot ask your own witness leading questions. You must ask your own witness direct questions – what we call direct examination. More on this in our complete step-by-step course.

Merely making an objection may not be enough, unless the court rules on it.

The object of objections, remember, is to make a winning record for appeal.

Saying something like, “Plaintiff wishes to make a record of its objecting to the statements made by defense counsel,” is insufficient.

That’s not an objection at all!

Wishes are wishes – not objections.

The court may ignore wishes without fear of being reversed on appeal.

Nor are appellate courts required to consider your wishes as official objections.

You cannot ask a court to rule on a wish.

If you want to make an objection, *make it!*

Stand to your feet, look at the court reporter to make sure she is still typing and, in a voice loud enough for the court reporter to hear and record, pronounce that powerful word clearly and without apology of any kind.

“Objection, your Honor!”

Throw a flag on the play before the ball moves an inch farther.

Take no prisoners!

Objections need to be contemporaneous, but they also need to be ruled upon.

If the judge refuses to rule on your objection, *move* the court to rule.

Say, “Your Honor is moved to rule on the objection before proceeding further.”

If the judge *refuses* to rule you should, of course, object also to the refusal to rule.

Say, “Plaintiff objects to the court’s refusal to rule on plaintiff’s objection!”

Make it clear that the reason for not ruling is the judge’s *refusal* and not some consequence of your own inaction, not speaking loud enough, or some disturbance outside the courtroom window that temporarily grabbed the judge’s attention.

Remember: We are working to record the *judge’s* errors.

Failure to rule on your objections is a serious judicial error.

Preserve it for appeal by objecting.

It has been held that a judge’s *refusal* to rule does not prevent an appellate court from reviewing a case where the judge *intentionally* ignored the objection. By objecting to the judge’s failure to rule, you make your record clear that the court did not merely overlook your objection but intentionally *refused* to rule on it – a serious judicial error.

Object in a timely manner ... and forcefully, if the situation calls for it.

If the judge does not rule, *move* the court to rule.

If the judge refuses to rule, you have made a strong record of his error for appeal.

Then, if leading questions are asked and answered over your objection, or hearsay is allowed to come in over your objection, or other harmful errors are permitted over your objection, you've made an effective record for appeal showing you objected in a timely manner and that the judge wasn't simply asleep at the time or distracted by some factor causing him to miss hearing your objection, but that he *refused* to carry out his duty.

The appellate court will then decide whether the error was harmful or not and rule accordingly on appeal.

In most cases, if a judge fails to rule on your objection and you move the court to rule, the judge will comply with a ruling rather than risk having his error recorded for an appellate court to criticize.

If you don't move for a ruling, the other side will gain unfair advantage, and you may be unable to cure the error on appeal.

If you move for a ruling and the judge still refuses to rule, you've made a record that the failure was intentional ... and the appellate court will be properly advised so it can teach the judge his error.



Renewing Objections

Failed objections (i.e., those the judge overruled or ignored) should be renewed to preserve them for appeal.

The time for renewing objections is not fixed in stone, however times proper for renewing objections include:

- close of your side's presentation,
- close of your opponent's presentation,
- if any of your objections on jury *voir dire*¹⁶ were overruled or ignored, then at the close of *voir dire* and prior to the jury being sworn, and
- at the close of the case before the jury retires to deliberate.

With regard to renewing objections at the close of *voir dire*, the Florida Supreme Court explains that the purpose of requiring renewal of a *voir dire* objection before the jury is sworn is to make it plain to the trial court that the defendant has not abandoned his earlier objection and to give the trial court an opportunity to reconsider its earlier ruling. Carratelli v. State, 915 So.2d 1256 (Fla. 2005).

Failure to renew your objection may waive your right to raise the issue on appeal.

If during the opposition's interrogation of a witness you make an objection that is overruled or ignored so opposing counsel is permitted to continue asking questions that are improper, renew your objection with each such subsequent question ... and move the court to rule, if the court fails or refuses to rule. Then, at the close of your opposition's presentation, renew your objection once more!

If your objection does not sooner receive a favorable ruling, be sure to renew it at the close of the case before final deliberation begins.

The general rule is this: If you don't object, you can't appeal.

However, in some circumstances, if you don't renew your objection, you didn't object! That's right. You must renew your objections so the judge is given every chance possible to rule favorably on your objections.

If a judge overrules your objection, the record is made, but you should still renew your objection when the opportunity again presents itself as explained above.

¹⁶ The interview of potential jurors prior to the start of a jury trial to determine which jurors will be kept and which will be rejected.

If a judge ignores, or refuses to rule on your objections, move the court to rule and then, if the judge still refuses to rule favorably, object again, then renew your objection as described above so the court's error is clearly established on the record.

Otherwise you may lose valuable rights for appealing the judge's error.

First, object at the time of the error.

Then, renew all objections the judge overruled, ignored, or refused to rule upon.

In particular, renew your objections to the judge's refusals to rule on objections.

By renewing objections prior to the court's taking action that allows or ignores an error, you emphasize the error *on the record* and prepare your case for reversal or remand by the appellate court that will see *from the record* you did everything possible to prevent the judge from moving forward after the error occurred.

So, if during jury *voir dire*, you object to a particular juror being excluded by the other side, and the judge overrules your objection, then at the close of *voir dire* and before the jury is sworn, you must renew your objection to that juror ... or lose the right to object later.

Or, if during cross-examination of a witness by the other side, improper questions are asked, and your objection is ignored or overruled, then when that witness is excused, renew your objection and again, at the close of your opponent's presentation of his case, renew your objection, and finally at the close of the entire case before it is considered for final judgment, renew your objection once again.

Remember: The *judge's* error is the sole basis for appeals.

Nothing else is.

We object to what the other side does *because* we want the judge to rule against the other side and put a stop to the error so it doesn't harm our case.

However, it is the *judge's* error – either his failure to sustain our objections or his refusal to rule on them – that forms the basis for appeal.

The other side will try to get away with whatever “smoke and mirrors” games it can come up with to hide the truth and confuse the court against you.

Don't think for a moment that the other side will play “fair”.

It is not to be expected.

Errors will be made by the other side.

But, you cannot appeal the other side's errors.

You object to them.

Then, if the judge overrules or ignores your objections, you object to that as well and make your record of the judge's errors.

You prepare for appeal by objecting to *every* error – the other side's errors and the judge's errors.

However, on appeal it only the *judge's* errors that are under scrutiny.

If you don't object *to the judge's errors*, the appellate court has nothing to reverse or remand.

If you spend much time reading appellate decisions where a case is reversed or remanded for proceedings consistent with the appellate court's decision, you will see that at no time does the appellate court order your opponent to do anything whatever. In every case of this type, the appellate court corrects the errors of the judge and the judge alone!

So, after objecting initially to error, if a judge overrules your objection or refuses to rule, be sure to *renew* your objection before the court takes any final action that would allow the error to impact your cause.

- After jury *voir dire* and before the jury is sworn,
- At the close of your presentation,
- At the close of your opponent's presentation,
- At the close of the case and before deliberation, and
- Anytime it seems necessary to preserve your record for appeal.

Very important.

Classes



Objections generally fall into one of four (4) classes.

- Evidence Rule Violations
- Procedural Rule Violations
- General Law Violations
- Polity and Precedence

We'll examine each of these in general and, later, describe in detail several of the more common objections you're likely to encounter when you go to court.

Evidence Rule Violations

These are the most frequently-heard objections you'll encounter.

Each arises when a party (or the judge) ignores one of the evidence rules.

For example, the objection, "Hearsay!" is an evidence rule violation. There are many exceptions to the hearsay rule (covered in others parts of our step-by-step course), and you need to know what they are. However, testimony as to statements made out of court by someone who is not "in court" and offered to prove the truth of what they said is inadmissible hearsay ... *because the evidence rules forbid it.*

So, we jump to our feet and pronounce, "Objection. Hearsay."

Competence is another evidence rule objection. As stated previously, the only witnesses who are competent to testify to a fact are those who

- saw,
- heard,
- felt,
- tasted, or
- smelled

the fact personally. The only competent witnesses to a fact are those who have first-hand knowledge of the fact ... and *only* those having first-hand knowledge.

Otherwise, we jump to our feet, "Objection, your Honor. Competence."

The more common of these are included in the text that follows this chapter.

In general, to be able to use the evidence rule objections effectively, you need to know the theories behind the evidence code (i.e., why we have the various rules and how each rule meets the needs of justice).

Then, when you see a violation of an evidence rule, it will be second-nature to object. You'll object quickly and promptly state the grounds for your objection.

Get and study our materials on understanding evidence rules.

Procedural Rule Violations

These, too, are quite common. Any time a party (or judge) permits an action that is not permitted by the Rules of Civil Procedure (or the Rules of Criminal Procedure in a criminal case)¹⁷ an objection should be promptly made, identifying the rule and how it is being violated.

For example, suppose a party moves the court for an order setting the case for trial before all motions directed to the pleadings have been disposed of. In all jurisdictions we know of, a case is never ready for trial until all motions *directed to the pleadings*, such as a motion to strike a sham complaint, are disposed of. A motion to strike a sham complaint is directed to a pleading, i.e., the complaint. Therefore, the case is not ready for trial if such a motion is pending and has, therefore, not yet been ruled upon. The motion is directed to a pleading, and so the case is not ready for trial.

Other examples of motions directed to the pleadings are motions to dismiss or to require a more definite statement. Such motions directed to the pleadings must be ruled upon before the case is “ripe for trial”.¹⁸

If the opposition moves the court for an order setting your case for trial (or the judge on his own motion sets your case for trial) before a motion to dismiss, motion to strike, or motion for more definite statement have been ruled upon (or, in some courts, before discovery is completed by both sides) object at once.

If the court sustains your objection, trial will be delayed until the requirements of the rules are met.

If the court overrules your objection or refuses to rule on it, you have grounds for appeal if it turns out that going forward to trial materially prejudiced your case.

¹⁷ Jurisdictionary is primarily designed to teach the principles and practices of due process for civil cases, however a great deal of what we teach also applies in criminal cases. Procedural rule violations and evidence rule violations both give rise to objections in criminal as well as civil cases.

¹⁸ In some jurisdictions, a case cannot be set for trial until both sides have a reasonable opportunity to obtain discovery of evidence in support of their cause. This is not universal, however, and may not apply where your case is pending. Check your local rules and case law.

Such objections relate to violations of the rules of procedure.

To understand more, you need to study our complete step-by-step lawsuit self-help course where you will find it easy to learn about motions, discovery, and procedure that wins lawsuits.

General Law Violations

These arise less frequently, however it should be clear that if a party (or judge) violates an ordinance, statute, appellate court decision, or other proscriptive law, an objection should be made at once, stating the law that's been violated and, if necessary, describing how it's been violated (so the court record will reflect what's happened, and the judge has an opportunity to cure the problem).

For example, in many states if a party resists producing documents on the grounds that the documents contain trade secrets, and the requesting party moves the court to do so, the judge *must* examine the documents *in camera* (i.e., privately, outside the view of the requesting party), then enter an order finding the documents do contain trade secrets that should be protected or declaring they do not contain trade secrets and ordering them turned over to the requesting party. This is the law in many states. The judge's failure to abide by the law is objectionable error.

It is not a rule of procedure nor a rule of evidence.

It is general law that controls the court.

Similarly, though an extremely unlikely example, if the opposing party brings a loaded shotgun to court, the basis for your objection is that general law forbids anyone other than the judges and bailiffs and other law enforcement officers to possess firearms in the courthouse.

Any violation of general law is objectionable error.

Polity and Precedence Violations

The objections in this classification are based on common sense and decency.

For example, suppose your opponent walks into court with a 300-pound gorilla on a leash. You may confidently object.

You may find a 300-pound gorilla in a black robe sitting on the bench.

But, it is a violation of polity and precedence for wild animals to be admitted to the court unless good cause founded on a necessity can be shown.

Fail to object, however, and you won't be permitted to complain on appeal.

Suppose the other side requires a seeing-eye dog. You might object, but in all likelihood, your objection would be overruled. Polity and precedence are established in such cases. Seeing-eye dogs are allowed in most courts, because it's the "right thing".

It is probably not a good idea to show up in court wearing cut-off jeans and a Grateful Dead T-shirt, either, because polity and precedence don't allow it.

Our courts are controlled by more than rules of evidence, rules of procedure, and general law. They are controlled also by public policy, a reasonable code of decency, and the requirement of polite decorum.

Failure to object, however, may defeat later complaints to an appellate court that you lost because someone was wearing shorts or was allowed to bring their pet canary to court.

If it doesn't seem proper, object and make your record.

Such objections are rare but valid nonetheless when disruptions of proper and polite proceedings prejudice your ability to effectively present your case.

Do not let the court become a three-ring circus without objecting and getting the court to rule on your objection.

In particular, make your objection clear if you are not allowed to have a court reporter present for all proceedings to prepare a written record of all that's said so you may later obtain a transcript for any possible appeal (without being required to obtain the judge's permission).

If there is no record of a hearing or trial (or the judge denies your right to have a transcript made so you can submit it to the appellate court), there can be no appeal in the event some error by the judge causes you to lose.

Failure to have a court reporter present is a persistent cause of lost cases that should have been won!

Courtrooms should be managed by the judge in a manner that promotes order and a level playing field for both sides in the dispute. For the judge to allow anything that disrupts this balance is appealable error ... if the disruption adversely affects your case.

Indeed, if it appears to you that anything is being allowed that adversely affects your right to a fair trial, object ... no matter what grounds you may have.



Asked & Answered

If a lawyer attempts to unfairly emphasize a witness' testimony about a particular fact by repeatedly asking questions that elicit the same answer, object!

Don't let a lawyer keep asking repetitive questions that emphasize a fact contrary to what's best for your case.

Say, "Objection. Asked and answered."

Enough is enough!

The judge should sustain your objection.

Attempts to emphasize testimony about a particular fact by repeatedly asking the witness questions that elicit the same or substantially similar answers will be stopped, *if you object in a timely manner and the judge is doing his job!*

If you don't object, the lawyer will keep beating those dead horse facts until the facts are taken as true no matter how unlikely they might be.

Drumming witnesses for redundant answers to emphasize a fact is one method crooked lawyers use to *unfairly influence the court!*

Object!

And, if the court fails to rule on your objection, move the court to rule ... either to deny your objection and let the other side keep on, or to sustain your objection and put a stop to the repetition.

Either way you will have made your record for appeal.

Here's what to expect.

Lawyer asks witness, "What time was it?"

Witness answers, "Around supper time."

Lawyer asks, "So, it was nearly dark?"

"Nearly," the witness responds.

"The light was fading?" the lawyer drones on.

"Decidedly," the witness answers.

"Would you say it was dusk?" the lawyer goes again.

"Yes, I would say so," the witness replies.

"So, the sun was going down?"

And here, if not sooner, you stand and say, "Objection. Asked and answered!"

The judge should sustain your objection.

Do this anytime a lawyer repeatedly asks questions trying to emphasize testimony by getting a witness to repeat a fact more than once or twice.

Do it at trial, at evidentiary hearings, and at depositions.

Some lawyers beat the evidentiary bushes this way just to keep the clock running so they can bill more hours and steal more money from their clients. The more time they spend, the more money they can demand.

Others do it to emphasize facts they want admitted as evidence, facts that will tend to unjustly influence the court, facts that by repetition are likely to stand out in the mind of the court ... facts that aren't likely to do your case any good.

You don't want the other side to emphasize unwanted facts, so you object.

If the judge is a good judge, your objection will be sustained.

The lawyer will be instructed, "Move on, counselor."

You cannot stop the lawyer from asking questions. That's his job.

After all, you want the same privilege, don't you?

Asking questions is what we do when we have witnesses on the stand.

But, we don't want lawyers using unfair tactics to influence the court, and our timely objections can stop them dead in their tracks ... or, at least, make an effective record for appeal if the judge commits the judicial error of allowing it to continue!

Improve your odds!

If you have a lawyer, don't trust him to object when needed. Many lawyers will not object, because they are afraid to upset the judge!

It's true.

Trust me.

I know lawyers who have sold their own clients down the river because they were afraid to get on the bad side of a judge they'll have to be in front of next week and the month after and for years to come during the rest of their career. It isn't right but, from reading the sad stories we receive by email at the practice seems to be

commonplace.

Don't trust your own lawyer (if you have one) to object when needed.

Go the extra mile.

Make certain.

Command your lawyer (if you have one).

Don't pay for services you aren't getting!

When an objection is due, make it ... and get the judge to rule.

If you have a lawyer who won't object when an objection is called for, jab him in the side with a sharp stick.

If that doesn't work, stand to your feet and say, "Objection!"

At the end of the day, if you lose the lawyer will go home to his family and think little of it, after all.

While you will have to pay the piper!

If your lawyer won't do his job, fire him and get another ... before it's too late to cure the problems he will cause by allowing errors to pollute the record of your case.



Badgering

Badgering occurs when a witness is interrogated in an abusive manner.

Insulting or intimidating questions, generally, are disallowed ... *if you object!*

Badgering takes the form of an *unnecessary* verbal attack on the witness.

It is, of course, objectionable.

Your objections on this ground should be sustained if made in a timely manner, *and if the questioning is obviously abusive.*

For example, suppose you're cross-examining a witness for the other side, "Isn't it a fact you're a dope-dealer and beat your own mother to death with a broom handle?"

These types of questions are perfectly permissible, so long as you do not badger the witness.

If the witness *is* a dope-dealer and *did* beat his mother to death with a broom handle, or there is any evidence at all to support these allegations, then such questioning is not badgering.

Otherwise, it may be badgering, i.e., if there is no evidence whatever to support it.

While it is possible to politely lead a witness on cross-examination¹⁹, there will be times when one must take a hard-line approach to squeeze from the witness answers the witness is reluctant to give.

By now you're asking, "How do I know where hard-line questioning ends and badgering begins?"

¹⁹ We recommend you at least attempt to do so in a friendly manner whenever you begin to cross-examine witnesses so they don't tighten their responses, like an animal caught in a corner. Being friendly, at least at first, tends to put the witness in a comfortable state and increases the likelihood that answers will be more freely given and more complete. In some circumstances, you may be required to go on the offensive while cross-examining, leading the witness with embarrassing questions. When it is likely you will have to do this at some time during the examination, we recommend you take a more friendly approach at first so you will get as much voluntary information as possible before beginning the hard-line method to squeeze from your reluctant witness the remaining facts you need.

That, in essence, is the question you must decide when the other side begins to tear into one of your witnesses with merciless cross-examination.

Leading questions can be abusive from the standpoint of the witness, while failing to raise an eyebrow on the judge's experienced face. Indeed, it is seldom comfortable to be cross-examined.

When the other side is allowed to use leading questions²⁰, the witness is no longer merely being *asked* to answer, he is being compelled to do so ... *and is being told in part what the answer is that must be answered*.

This in its very nature is "abusive".

But, such questioning can reach a fevered pitch where the abuse crosses the line and becomes an aggressive assault on the witness.

One should never be permitted to brow-beat a witness.

Nor is it proper to overtly insult a witness or *unnecessarily* embarrass a witness.

The measure by which you determine if badgering has occurred, of course, is to know at what point a witness is being *unnecessarily* insulted or embarrassed.

At that point the objection is called for.

"Objection, your Honor! Counsel is badgering the witness!"

What seems like badgering to one person may not seem like badgering to another. The seasoned trial judge hears this sort of thing day-in and day-out.

Some judges permit more abuse than should be tolerated.

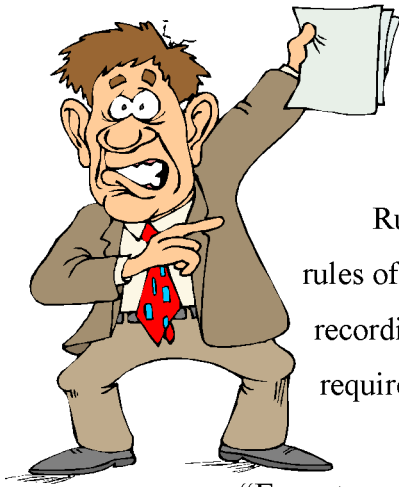
Other judges may be too strict, requiring that witnesses be treated with the highest degree of politeness punctuated by occasional pleasantries ... e.g., "Miss Witness, may I ask why you were snuggling in the back room with the store manager when your duties were to watch the security cameras? And, by the way, that's a strikingly lovely blouse you're wearing today!"

Between these two extremes lies the proper place to draw a line between ordinary questioning and the abusiveness that characterizes badgering and gives rise to objection.

²⁰ Leading questions and cross-examination are covered in our complete step-by-step self-help course. You need to know when and how to cross-examine – and when and how to use direct questions only.

Lawyers will badger a witness when they wish to discredit the witness' credibility or to shake his nerve so he will drop his guard and give more information than he might otherwise reveal.

It is not permitted ... *unless you fail to object.*



Best Evidence Rule

Rule 1002 of the Federal Rules of Evidence (after which nearly all state rules of evidence are patterned) states, “To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by Act of Congress.”

Typically, state rules, such as this one from Florida, follow suit.

“Except as otherwise provided by statute, an original writing, recording, or photograph is required in order to prove the contents of the writing, recording, or photograph.” Rule 90.952, Florida Rules of Evidence.

This is sometimes called the “Best Evidence Rule” and forms a handy objection when the other side in your case offers a copy instead of the original of a document, recording, or photograph.

Suppose your opponent offers a Xerox[®] copy of some alleged cancelled check in an effort to prove his client paid some bill you claim is due and owing.

You object.

“Objection, your Honor. Best evidence rule.”

The judge may ask (or you will), “Where is the original?”

If the other side replies, “Oh, it’s back at my client’s office in the company safe,” or, “My client’s accountant has the original,” then you renew your objection and insist that the original be produced or that the copy be excluded as inadmissible evidence under the best evidence rule.

If the other side claims, “The original was destroyed, your Honor,” then you make your record by demanding to know details of the circumstances under which the original was destroyed, since legitimate unavailability of an original results in the admissibility of a copy under the rule.

In brief, the best evidence rule can be explained this way.

If the original of a document or thing *can* be produced through the exercise of reasonable diligence, then *only* the original is admissible ... and no copy can be used as a substitute.

If the original has been destroyed or is otherwise no longer available, even with the exercise of reasonable diligence, then the copy may be admitted, in spite of the rule.

However, the copy is still a copy – and, as such, it does not carry the same weight of proof as would the original.

Do not fail to make this distinction.

If the original is not available, and the court admits a copy, make it clear on the record that the copy is not an equivalent of the original. Especially in this present digital age, any schoolchild with a smattering of computer savvy can create exacting duplicates of almost anything that can be replicated on ordinary paper²¹.

If a photograph is offered, you may choose to object unless the negative can also be produced (assuming, of course, the photo is an outdated type made from a reverse negative, instead of a modern digital print – *the kind that is amazingly easy to “doctor” using the average home computer and inexpensive software*).

The purpose of your objection is to call into question the authenticity of any copy offered by the other side. This, in turn, creates an opportunity to cross-examine persons who allegedly had possession of the original as well as those who now offer the court a copy instead of the original and those who supposedly controlled the chain of custody in between. This is your right. Insist upon it.

“Objection. Best evidence rule.”

This challenges the copy and presents the court with a duty to allow examination of the copy in a way that would not be considered if an original had been offered instead.

Don’t let the other side slide copies in “under the evidentiary door” without using this objection to explore the possibility of fraud.

Your challenge should be based on a “genuine” suspicion of fraud predicated on alternate evidence.

²¹ Money being one principal exception, since currency is printed on special paper embedded with tags that fool even the cleverest would-be counterfeiters. Simpler things, like a will or a contract can be easily “created” from thin air, so to speak, printed on the average home computer system. Even photographs can be “doctored” in nearly indescribable ways to put people where they never were or remove them entirely from an evidentiary scene. The purpose of the best evidence rule is to avoid or, at least, to minimize these frauds upon the court.

Additionally, the best evidence rule is not available to exclude a copy, if the copy is not being offered to prove the truth of what it says. The rule applies only when a copy is being offered to prove (or disprove) some fact material to the outcome of the case.

Finally, your best evidence objection must show that your opponent's use of a copy will be "unfair" to you, such as where you need an original for examination by a hand-writing expert.²²

As with the other objections described in this little book, the purpose for the rule is to prevent fraud and promote a speedy determination of the truth.

The U.S. Supreme Court said, "The elementary wisdom of the best evidence rule rests on the fact that the [original] document is a more reliable, complete, and accurate source of information as to its contents and meaning." Gordon v. United States, 344 U.S. 414 (1953). This should be obvious to all of us.

In general, if the original *can* be produced, it *must* be produced – and no copy is an acceptable substitute.

If opposing counsel asks a witness what some letter, contract, or other document "said", object. A witness cannot tell us what the writing said, if the writing can be found and brought to court. That's what this rule does for us.

"Objection, your Honor. Best evidence rule."

Some lawyers say, simply, "The document speaks for itself."

If a letter, contract, or other document can be produced through the exercise of reasonable diligence, then the document itself is the "best evidence", and statements by a witness claiming to tell us what the document may or may not have said is excludable under the rule.

California's latest version of the rule is now called the "secondary evidence rule". The courts there hold, "[I]f a litigant seeks to introduce evidence of the words contained

²² Typically, a professional hand-writing expert cannot reach a definite conclusion about a forged signature working from a copy and not an original. If you challenge a copy as being forged and declare that you intend to have a hand-writing expert examine it, your argument for production of the original is much stronger than if it is only the content of the writing that you challenge. A Xerox® copy of a decedent's will, for example, should not be probated by the court unless you are allowed to challenge both the content and the alleged signature. I had a case some years ago where the disgruntled son of a nice old lady, who died and left her Florida home to my client instead of her own children, actually challenged his mother's will by creating his own version with a Xerox® machine, copying his mother's signature from an old Christmas card! The truly funny thing I uncovered during discovery was that this stupid man previously published a book detailing how to create forged documents using a Xerox® machine!

in a document, he must introduce the document itself, not a verbal recollection of its terms.” People v. Muhammad, 153 Cal.App.4th 358 (2007).

The Ohio courts list some exceptions to the rule, exceptions that generally apply in all jurisdictions:

- Original lost or destroyed, unless the party offering the evidence lost or destroyed the original in bad faith;
- Original cannot be obtained by any available judicial process or procedure;
- Original in possession of opponent and, at a time when original was under the control of the party against whom it is offered, he was put on notice by the pleadings or otherwise that the contents would be subject of proof in court, and he does not produce the original; or
- The writing, recording, or photograph is not closely related to a controlling issue.

Anderson v. Anderson, 147 Ohio App.3d 513 (2002).

As with all of these, failure to object waives the issue, and it cannot be raised for the first time on appeal.

So, if the other side attempts to “prove” the contents of a writing, recording, or photograph by offering a copy or the testimony of witnesses, instead of producing the original, object and renew your objection as explained to preserve your record for a successful appeal.

Competence



Competence objections are based on a hard-and-fast evidence rule that requires everyone testifying to a fact to have first-hand knowledge of the fact – i.e., *up close and personal!*²³

Moreover, the individual testifying must have sufficient mental faculties to be relied upon as competent.

Otherwise, the testimony is objectionable.

A person formally adjudicated senile or insane (e.g., anyone committed to an institution for mental infirmity or placed under a court-imposed guardianship) may lack competence to testify. You may have a fight on your hands if you object, however you will at least make your record for appeal if the testimony comes in and is damaging to your case.

And, of course, if you do not object you lose all hope of raising the issue for the first time on appeal.

People institutionalized for mental infirmities and those who require a guardian under court order are, by definition, “incompetent”.

After all, that’s what the word means!

Children may lack competence to testify, even though they witnessed a scene or event first-hand. For this objection to hold, the child’s age comes into play. If you think a child witness may take the stand in your case, do some advance research homework in your jurisdiction to determine the age cut-off for testimony by children and, while you’re at it, examine the case law to see what other factors may apply that limit the testimony of children where your case is being tried.

Not all children lack competence to testify. A high school honors student, for example, will probably be allowed to testify.

²³ Witnesses who have been qualified by the court as experts may testify to their professional opinions about a matter, even though they have no first-hand knowledge of the surrounding facts. However, that testimony should be offered only as “opinion”, not “fact”. Non-experts (also sometimes called “lay witnesses”) should not be permitted to offer their opinion, except as it may relate to their first-hand knowledge of the opinion of a community or large group of people, in which case, of course, the lay-witness is not offering his or her own opinion but, rather, stating a fact known by first-hand knowledge, i.e., the opinion of the group. See also *speculation* covered in a later chapter.

A three-year-old, on the other hand may not.

Children who still talk to their toys lack competence.²⁴

If the other side attempts to elicit the testimony of an 8-year old, object!

In most states young children are deemed to lack competence to testify. If you anticipate that a child may be called in your case, carefully consult the evidence rules controlling your local court *in advance* to know the limits imposed on age-competence. Then go beyond the rules and do some on-line research *in advance* to find appellate decisions on the issue, decisions of appellate courts that control the trial judge.

Clearly, a 2-year old lacks competence to testify about anything whatsoever, while an older child of 12 or 14 may be competent to testify about certain types of matters if they have first-hand knowledge of the facts.

Always rely on the rules and case law when anticipating an objection of this kind and be prepared to cite these authorities on the record.²⁵

Obviously, if an elderly person suffering from Alzheimer's disease or other form of dementia is called upon to testify in any way, the objection should be made as quickly as possible.

The same applies to persons adjudicated insane or injured persons or those using mind or mood altering medication (whether prescribed or illegal) who have diminished cognitive capacity.

In such cases some outside proof may be required to convince a judge that the offered witness does, indeed, lack competence.

More commonly, you will encounter attempts by opposing counsel to elicit testimony from someone who has no idea – first-hand, that is – of what he or she is being asked to report.

Lack of first-hand knowledge = Lack of competence to testify

The worst form of this abuse occurs when a lawyer begins to testify, instead of doing his job ... which is asking questions and presenting legal argument. Lawyers are

²⁴ Remember: The testimony of a child old enough to be competent to testify may nonetheless be excludable on other grounds. Any objection that keeps unwanted testimony out is a good objection!

²⁵ Remember: The judge in your case is *not* the authority. Statutes, rules, and constitutional provisions are the authorities in our American courts ... but only as interpreted by case law, i.e., controlling appellate court decisions. Cite cases in support of everything you do – cases from an appellate court that has jurisdiction over your trial level judge.

not supposed to testify. Lawyers lack competence to testify. Lawyers should *never* be allowed to state facts beyond their personal first-hand knowledge except during opening and closing statements. Yet, this violation of the letter and spirit of American due process is commonplace ... *so you must be on your toes to stop it before it injures your case!* A lawyer usually knows nothing beyond facts he learned from his clients or third persons. He therefore lacks competence to testify about such facts in court.

It isn't right.

It is clearly objectionable.²⁶

Don't be intimidated by lawyers ... or judges!

The rules are on your side!

Countless thousands gave their lives for your right to rely on the rules, to enjoy a level playing field in court, to be heard, to call witnesses on your own behalf, and to stop unfair practices of unscrupulous lawyers and corrupt judges who violate the blood-bought rules that make Liberty and Justice possible for all of us!

Be a *true* patriot.

Force the judge in your case to enforce the rules.

And, if the judge refuses to sustain your objections, make sure your objections are renewed so they will be clearly on the record for appellate review!

Only competent witnesses should be allowed to testify.

In the funny movie, My Cousin Vinny, an old lady testified in a Deep South trial that from the window of her home she saw two young men in the very act of committing a serious crime across the street. She claimed she could identify them as the New York lawyer's cousin and his friend.

Vinny, the heavy-accented Yankee lawyer (played by Joe Pesci), stretched a tape measure from the witness box to the back of the courtroom. When he challenged her to see that short distance, she was unable to do so through her thick bifocals. She could not possibly have identified the two accused boys at the distance she claimed. Her testimony was objectionable, because she lacked *visual* competence. She was only allowed to testify to what she, herself, saw ... not what she was told about the crime by others eager for the conviction of a couple of Northerners.

²⁶ This form of abuse and how to handle it is covered in a later chapter.

Persons extremely hard of hearing, or claiming to have seen a murder committed in the moonlight on a night the almanac proves moonless²⁷, or a person in another city at the time all lack competence to testify.

If a witness was drunk at the time of making an observation about which he is called upon to testify (and you don't want the testimony admitted²⁸) jump to your feet with a hearty, "Objection! Competence! This witness was falling-down drunk at the time." Of course you'll be required to prove the witness was so inebriated his testimony cannot be relied upon, but make the objection anyway, and see where the chips fall.

All such testimony is objectionable, whether offered by a conniving lawyer, lay witness, or expert witness who is being paid to testify. If the person offering testimony lacks first-hand knowledge of the fact offered as evidence, that person lacks competence, and you should object immediately.

Competence is the root of the hearsay objection discussed later. If all one knows about a fact offered as evidence is what someone else (who is not in court and, therefore, not available to be cross-examined) said about the fact, the witness lacks the necessary competence that would otherwise make his testimony admissible.

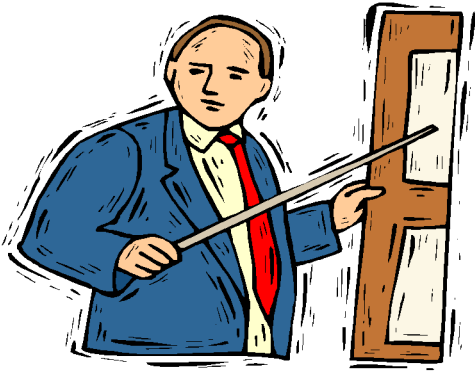
If a witness lacks competence to testify about a fact, object.

If the judge overrules your objection or refuses to rule, renew your objection at the proper time later *before any action is taken that would foreclose your objection*.

²⁷ The facts in a case that made Abraham Lincoln somewhat famous before his presidential election.

²⁸ Remember: We only object to testimony we *don't* want. If testimony seems good to your case, let it in. But, if later testimony from the same witness begins to damage your case, you may have difficulty objecting on the grounds of competence, if you didn't object when the desired testimony was offered. You must always be on-your-toes, anticipating the opposition's next move. Don't get sidetracked!

Counsel Testifying



The worst form of abuse of the competence rule occurs when lawyers testify to get facts into evidence, instead of asking questions of witnesses (who *are* competent to testify) to get the facts into evidence *properly!*

It happens all the time!

You must be on guard for it and prepared to object!

When a lawyer begins to state facts outside his own personal knowledge ... facts he learned from his clients or third persons ... facts he lacks competence to testify about in court ... *object at once!*

It isn't right.

Yet, you'll find this sort of unfair manipulation of facts in nearly every case you come across.

If a lawyer cannot find tangible items or witnesses to offer as evidence in support of his case, he will frequently attempt to get the evidence in anyway by stating facts about which he has *no first-hand knowledge* ... detailing the content of documents that aren't available, telling the court what was said by someone who isn't present for cross-examination, or describing a scene or the actions and behavior of people he never met.

To multiply this unlawful exploitation of due process, most lawyers are adept at using the English language forcefully, illustrating their points with word-power most lay persons lack.

It doesn't matter that they are members of The Bar.

It doesn't matter that they finished law school, passed the bar, and enjoy a certain degree of prestige as they strut about the courtroom in expensive clothing and highly-polished shoes.

If they do not have first-hand knowledge of facts they offer to the court, they lack competence, and a timely objection is *essential*.

Otherwise (if you allow them) they will present damaging evidence in a light that dishonestly influences the court against you ... facts about which they have only the

knowledge they've learned from others (i.e., no first-hand knowledge of their own), and you will unnecessarily run the risk of losing as a direct result if you don't object and put a stop to it *immediately!*

It is clearly objectionable.

You must put a stop to it ... or run the risk of allowing the court to consider the lawyer's testimony as admissible evidence.

It *isn't* admissible!

No. Not by a long shot!

The rules forbid it.

Lawyers lack competence to testify!

It is a corrupt practice.

You must stop it before it begins.²⁹

A particular aspect of this abusive practice needs mentioning to help you control the inevitable.

The rules of professional responsibility that govern lawyers (every state has them) limit the ability of a lawyer to be both witness and counsel for his client.

One may serve as lawyer for a client or a witness for the client ... not both.

First: If a lawyer insists on offering testimony and the court allows it over your objection, you should move the court for an order finding that the lawyer is a witness for the opposition.

Either the lawyer is a lawyer and plays the strictly limited part of a lawyer, or the lawyer is a witness *and can no longer play the part of lawyer!*

If the court rules that a lawyer is a witness, then move the court to disqualify him to testify pursuant to the state bar's rules of professional conduct (which, of course, you will have already read and be prepared to cite by scripture and verse).

²⁹ The only exception is during opening and closing statements, when many judges will allow lawyers to state facts, rather than outlining what the evidence will show (opening) or what the evidence has shown (closing), which is the proper way to conduct opening and closing statements. If the judge allows opposing counsel to state facts on opening or closing, be certain to make clear when it comes your turn to explain that what the lawyer said is based on evidence before the court. But! If the lawyer states facts on opening or closing that are not introduced into evidence, be sure to make a point of objecting, "Facts not in evidence!"

Second: If a lawyer insists on offering testimony and the court allows it over your objection and will not disqualify the lawyer, move the court to order the lawyer to take the oath and submit to your cross-examination.

Anyone offered as a witness *must submit to be cross-examined by the other side*.

It should be no different if the person testifying is the other side's lawyer!

Object!

And if the judge overrules your objection or refuses to rule on it, be sure to renew your objection before the court takes any action that would cement the damage.

Make your record.

Take no prisoners!

Otherwise, unwanted evidence will come in *without a competent witness* and you will be further injured in your cause by inability to cross-examine the "lawyer-witness".

If the judge allows it, object.

If the judge will not order the lawyer to submit to cross-examination, object.

And, *every* time the lawyer offers facts as a "witness", object!

And, when appropriate, renew your objection before the court enters any rulings that rely on the incompetent testimony.

Remember: Your right to rely on the rules was bought with the innocent lives of heroes who died to protect and preserve your ability to require every officer and agent of our government to obey the rules of the law like everyone else.

Lawyers and judges are no exception!

What's good for the goose is good for the gander, as my Granddaddy used to say.

He also said, "There's more than one way to skin a cat!" If you don't get your way in court, prepare for appeal by making timely objections and renewing them at the proper time.



Facts Not in Evidence

Not infrequently you'll catch a lawyer "reminding" the court of facts that have never been properly introduced into evidence ... no documents, no witness testimony, *nothing but the lawyer's sneaky wordwork!*

This will happen at hearings, at depositions, at trial, and in written memoranda, motions, and other papers submitted to the court.

You must stop it with a timely objection!

Such facts will be sneaked in. You can count on it, if the other side is represented by a lawyer. It usually happens because the lawyer doesn't have any witnesses, documents, or other things he can bring to court that might tend to establish the facts fairly ... so the lawyer cheats!

His case is weak, and he knows it.

He also knows it is against the rules for him to mention facts that are not in evidence ... but expect him to do it anyway.

If he can't call a witness to get the evidence in, and he can't find some tangible item or document of some kind to get the evidence in, he'll just go ahead and talk about it as if it were already an established fact ... if you allow it by failing to object!

Usually, the lawyer will simply go ahead and state the fact himself while examining a witness or during his closing statement ... when there is nothing in evidence to support it ... and hope you don't notice that he has offered inadmissible evidence unlawfully.

You *will* notice, however, because you are a student!

You will stand to your feet at once!

"Objection, your Honor. Facts not in evidence."

If the judge is a good one, he will instruct the lawyer to confine his recitation of facts to those that have already been admitted and, if it's a jury case, he will instruct the jury to disregard the lawyer's statement³⁰.

Here's an example. Consider yourself the defendant in a breach of contract suit. You've been accused of taking 300 gallons of red paint from plaintiff's warehouse without paying for it.

The lawyer on the other side is working hard to prove you owe his client money and, as you'll frequently encounter with a growing percentage of lawyers, he is trying to paint his client in the best light possible to show he is an honest fellow who would never sue someone without cause ... even if he has to break the rules to do so!

He off-handedly says, "My client was busy working as a volunteer at his church soup kitchen while the defendant was removing paint from my client's store."

There are no facts in evidence to support this statement.

The lawyer hasn't called any witnesses to corroborate either fact.

No documents nor anything else has been presented to the court to substantiate this biased claim ... much less *admissible* evidence!

The lawyer is merely testifying ... in itself objectionable ... but the facts he offers have not been presented to the court by any witnesses, documents, or other things that might make those facts admissible.

You stand to your feet at once and say, "Objection. Facts not in evidence."

It is clearly permissible for a lawyer to remind the court what a particular witness may have testified when previously questioned. If a witness offered evidence that you did load paint into your truck on such-and-such date at such-and-such time, then it's perfectly permissible for the lawyer to remind the court by saying something like, "The court will recall the testimony of the plaintiff's secretary, Miss Scarlet, who told how she was enjoying a cigarette on the loading dock that day when she saw the defendant back his truck up to the warehouse door and carry the paint away."

That's not only permissible – it is good lawyering and perfectly proper.

³⁰ Sometimes this is effective. Sometimes it's not. However, it's the best you can hope for. That's why you want to object as *quickly* as possible ... preferably *before* the court hears what's being offered.

It is equally permissible for the lawyer to offer evidence that his client was at his church serving soup to the homeless on that date and at that time, provided he does so by offering competent witness testimony, original documents³¹, or other things that tend to prove what he says. If he previously called the priest or pastor of the church to the stand and obtained competent testimony reporting that the plaintiff was doling out soup at the time of the alleged taking, then he can *remind* the court of evidence already admitted.³²

It is *never* permissible for the lawyer to simply offer facts without corroboration.

Never.

Object on both grounds!

“Counsel is testifying.”

“Facts not in evidence.”

Lawyers are not supposed to “prove” cases by clever legal argument supported by their own version of the facts.

A lawyer’s version of the facts is, by itself, inadmissible and will be excluded by a good judge *if you object!*

It is your job to require the opponent’s lawyers to prove their clients’ right-to-win by presenting admissible evidence ... and admissible evidence *only!*

If they do otherwise, object!

If you do not control the lawyer on the other side, the lawyer will do whatever he can to win his case.

Some lawyers are honest.

Many, however, are not.

Don’t trust the one on the other side, no matter how clean-cut and well-dressed he may appear. There’s a good reason why there are more jokes about lawyers than any other profession. Too many of them are crooks, eagerly willing to twist the law at every opportunity.

And, don’t expect the judge to control the opposing party’s lawyer for you! He won’t in most cases. It isn’t his job. He is responsible to rule on objections.

³¹ Copies of documents fail to meet the “best evidence rule”.

³² Though, of course, testimony as to where plaintiff may have been at the time is probably objectionable on the grounds of relevancy and, clearly in this case, may be further objectionable because it is offered to elevate the court’s opinion of the plaintiff’s character contrary to the rules. Objectionable on both counts.

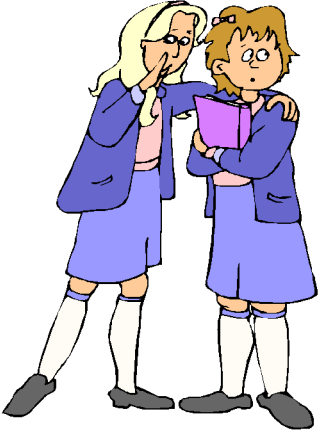
It's up to *you* to object!

So, object ... and, if necessary, renew your objections!

And, if the court refuses to rule, move the court to do so!

And, if that doesn't work, object once again – and make certain the court reporter is getting every word!

Hearsay



In spite of the fact that you hear this word bandied about by lay people, as if they knew what they were talking about, most people have only a vague and certainly un-official understanding of what the word means when used in court.

Indeed, many lawyers don't understand the technical meaning.

The man-on-the-street or "barber shop" opinion of hearsay is that a statement is hearsay if someone else said it, instead of the person who is now repeating what she says she heard from the other person.

That definition leaves out the technical aspect you must understand if you're going to protect yourself from hearsay testimony in court.

The following definition is as simple as it gets. Memorize it. Repeat it to yourself until you know it by heart.

"Hearsay is an out-of-court statement offered to prove the truth of what it says."

Let's look at this definition more closely.

Hearsay is

- an out-of-court statement (made by someone who is not in court)
- offered to prove the truth of what it says

If the person who made the statement is in court, subject to being cross-examined by the opposition, then the statement is not hearsay – even though the person who made the statement wasn't in court at the time the statement was made. The measuring stick is whether the person who made the statement can be called upon to corroborate (or deny) the statement *in court* ... and whether that person can be cross-examined to test the truth of what they said *in person*.

Secondly, if the statement is not being offered to prove the truth of what it says, it isn't hearsay – even though the person who made the statement isn't in court and cannot be cross-examined.

The statement may on rare occasions be offered for another reason, such as entry of an affidavit offered solely to prove the person who signed the affidavit was alive on the date certified by the notary. The content of the affidavit, in such rare circumstances, is

not what's being offered for proof but, rather, the fact that a notary attested that the affidavit was signed on a certain date by a living soul. Therefore, such an affidavit offered for the sole purpose of showing someone was alive on a particular date is not hearsay.

If an affidavit is offered to prove the truth of what it says, however, and the person who signed the affidavit under oath is not available to be cross-examined *in court*, the affidavit is *not admissible!* The affidavit could be witnessed by the Pope, himself, and still not be admissible unless the person who signed the affidavit can be brought to court where he can be cross-examined as to whether what he said in the affidavit is true.

A statement is only inadmissible hearsay if offered by a witness (or document) to prove the truth *of what the absent person allegedly said*. If offered for any other reason, it is not hearsay.

Ability to cross-examine the absent person is the second test.

There are many exceptions to the hearsay rule that you'll want to know before subjecting yourself to a deposition³³ or court proceeding. The "dying declaration" and "excited utterance" exceptions are two of the more common. These and many more are covered in our complete step-by-step lawsuit course materials.

If you don't already have our complete course, now is a good time to order. Go to to learn more about American Justice and the principles and practices of due process, so you can protect yourself from courtroom corruption and win your lawsuit ... with or without a lawyer.

The foundation for hearsay objections is lack of "competence".

Your hearsay objections will stop a witness (or document) from being used to prove a matter that is *beyond the personal knowledge of the witness* (or the person who prepared the document). Knowledge of someone who is unavailable to be cross-examined as to his or her veracity³⁴ is inadmissible.

Anyone who lacks first-hand knowledge of a fact lacks competence to testify to the fact. Anyone else who is alleged to have knowledge of a fact must be brought into

³³ For purposes of the hearsay rule, a statement made at a deposition where both sides were present and able to cross-examine the deponent, is considered an "in-court statement". Thus, such statements are not hearsay, even though they were not, technically, made "in court".

³⁴ Capacity for telling the truth.

court where he or she can be cross-examined on that alleged knowledge. Otherwise, what he or she said *out of court* is inadmissible (unless the statement falls into one of the hearsay exceptions you'll learn about in our complete step-by-step course).

It's terrifying to think of the corruption that would result but for this rule. People would be allowed to fill the court record with facts they were merely "told about" by others or, in many cases, facts they simply made up to satisfy the situation and turn the tables against the person who *should* win the lawsuit.

Lies would fly.

Justice would be perverted beyond recognition.

So, in her wisdom, Justice refuses to hear hearsay *if you object in time to stop it*.

You should prepare yourself to argue against the many hearsay exceptions your opposition may offer in an effort to get his hearsay admitted. Learn more by completing our entire step-by-step lawsuit self-help course. Just because the other side claims some testimony falls within one of the hearsay exceptions doesn't make it so. The exceptions are extremely limited. Learn more about them in our complete course.

Hearsay is *inadmissible* ... unless an exception can be shown to apply.

Object!

And insist on the judge's ruling on your objection to stop the hearsay *before* it pollutes the record.

It does little good to object *after* testimony is offered and heard.

Even if the judge instructs the jury to disregard, the harm will be done.

Better late than never.

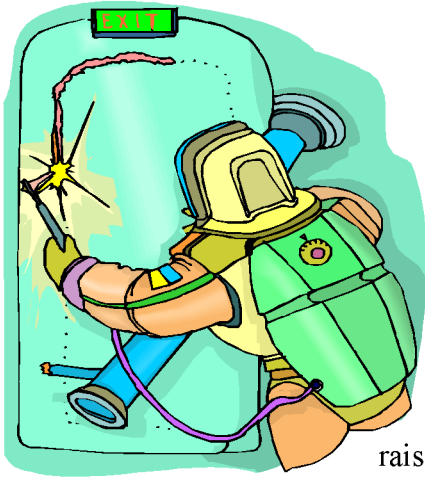
Object as soon as you can ... but object!

If the judge overrules, renew your objection later.

If the judge refuses to rule, move him to rule.

If he refuses to rule on your motion, object again ... and renew again later.

Do not allow hearsay to go on the record without objection!



Outside the Pleadings

As you've learned from our teachings³⁵, the only issues properly before the court at any time during a lawsuit are those issues properly raised by the pleadings ... and *only* those that were properly raised by the pleadings.

Once the pleadings are “closed”³⁶, no more issues can be raised for the court to try and decide in favor of one side or the other.

The parties both have their opportunity to raise their competing issues in the pleadings.

Once the pleadings are closed, however, those issues are sealed and remain unchangeable through the remainder of the lawsuit.

The pleadings tell us what the case is about. They should have been clearly stated in plaintiff's Complaint, defendant's Answer and Affirmative Defenses, and plaintiff's Reply to defendant's Affirmative Defenses.

Those *are* the pleadings.

Nothing else is.

Once pleadings are closed, they are like papers locked away in the compartment of a sunken ship. They cannot be changed without the court's permission. Everything the case is about (claims, arguments, facts, and objectives) is now secure in that sunken ship, waiting for the parties to present evidence to prove the facts they alleged and to present their respective legal arguments to establish who should be favored by the court's final judgment. The compartment is sealed. Without permission from the court, we cannot go back in and change them *or add to them*.

Don't allow the other side to confuse the court by raising issues halfway through your lawsuit that were not raised by the initial pleadings. Once the pleadings are closed

³⁵ You do have our complete step-by-step course, don't you?

³⁶ We say the pleadings are closed when the last responsive pleading has been filed and the last motion directed to a pleading (e.g., motion to strike, motion to dismiss, or motion for more definite statement) has been disposed of by the court. At this point, the pleadings alone should tell us what the parties are fighting about. We should be able to pull the clerks' file and, by reading just the pleadings, without looking at any other documents, know that the case is about – all justiciable issues are stated for the record. Or, as Sherlock Holmes would say, “The game is afoot!”

and there remain no motions addressed to the pleadings by which they might be amended or amplified, new issues cannot be raised ... *unless you fail to object!*

It would be like arguing with your spouse about some single thing he or she wants you to change about yourself and then, just as you begin to prevail with some justification that would defeat the dispute, to have your spouse change the subject and complain about something new, as if the first issue was no longer of any importance.

This is a commonplace tactic among unhappy couples, but it isn't fair, and it tends to destroy both affection and trust.

In court it is absolutely forbidden ... *unless you fail to object!*

No new issues can be raised once the pleadings are closed.

It isn't fair fighting, and the rules forbid it.

All too frequently, however, an unscrupulous (or stupid) lawyer will try to raise new issues during the proceedings of a case ... issues never raised by the pleadings.

There are only four types of pleadings in any case:

- Complaint
- Answer
- Affirmative Defense
- Reply to Affirmative Defense

There may be a counter-claim, cross-claim, or third-party complaint, but these are only variant forms of complaints and are, therefore, "pleadings". There may be answers to counter-claims, cross-claims, or third-party complaints, but these too are only variant forms of answers and are, therefore, "pleadings".

If an issue of material fact has not been raised by the pleadings, we say that issue is "outside the pleadings" or "beyond the four corners of the pleadings", or we use some other description to explain that the issue is "not properly in controversy and therefore not properly before the court, because it was not raised by the pleadings".

When the other side tries to obfuscate³⁷ the *real* issues in your case by raising *new* issues that were never mentioned in the pleadings, this is your response.

"Objection. That issue is outside the pleadings."

I've done this successfully many times. Each time the judge ordered cease-fire while he thumbed through the file to find the pleadings. He read what was said in the

³⁷ To hide by crooked and corrupt tactics.

complaint, the answer, and any affirmative defenses and replies, and if the newly offered issue was not made a part of the pleadings he prevented the other side from clouding the case further by bringing in a new dispute that was not part of the central controversy.

Very effective.

A common abuse by unscrupulous (and stupid) lawyers.

Don't allow it.

Object!

Remember (as taught more completely in our other step-by-step materials) every case stands or falls on the parties' pleadings.

The plaintiff raises issues in his Complaint.

The defendant responds with his Answer denying at least some of the facts alleged by his adversary.

Then (if he's studied our course), the defendant raises issues of his own with Affirmative Defenses.

Finally, the plaintiff responds to the defendant's Affirmative Defenses with a Reply by which he denies some or all of the defendant's defenses.

There then may follow what _____ calls a "flurry of motions" directed to the pleadings:

- Motions to Strike,
- Motions to Dismiss, or
- Motions for a More Definite Statement.

Once these attacks directed to the pleadings are disposed of (if any are filed), we say, "The pleadings are closed."

At this point we should know clearly what the case is about (i.e., if the parties did their jobs the way _____ teaches).

The battle-lines are set.

Both sides have declared what they now intend to prove.

All that's left is for each side to out-do the other by offering the greater weight of admissible evidence in support of the facts they alleged in their pleadings and to argue successfully that the law of the jurisdiction demands that the court grant the winner the relief he seeks.

Once the pleadings are closed, neither side is permitted to raise new issues, unless

the court grants permission to amend the pleadings.

You will encounter this crooked tactic often, however.

When a lawyer cannot win fairly, he will often try to confuse the court with issues never raised in the first place ... issues that are “outside the pleadings”.

The good thing for you is that most judges welcome the chance to simplify cases that come before them. They don’t want their dockets to be jammed, their cases running overtime, or their decisions delayed. Upon your motion, they will gladly stop parties from introducing new issues that are “outside the pleadings”, because by doing so they make things easier for themselves ... reducing the time to close the case and get on to the next.

Good for you ... *but it only works if you object!*

A talented but unscrupulous lawyer, given a free hand by your failure to object in a timely and effective manner, can so completely twist the facts and confuse the court with new issues outside the pleadings that the issues originally raised by the pleadings are lost completely in the judicial waters they have muddied by their clever evasion of the rules. If you aren’t on the lookout for their corrupt tactics, before you know it they’ll have the judge entering final judgment against you on issues that were never part of the lawsuit in the first place!

Fortunately for you (and all good people favored by our American Rule of Law and the principles and practices of due process), the game of litigation is controlled by a set of regulations that favor the good guy, i.e., the person who *should* win!

Parties are not allowed to introduce new issues into a case once the pleadings are closed.

It isn’t fair.

It isn’t American.

The days of winning by ambush are over!

If you object, that is!



Prejudice

The word “prejudice” comes from roots that refer to judging a thing in advance of hearing all the facts.

In lawsuits you’ll encounter, there’ll be times when the other side will offer facts that are more likely to prejudice the court rather than provide any “proof” value.

They may be offered to embarrass you or simply to shock the conscience of the court against you ... regardless of the other facts of the case that are in your favor.

We say the prejudicial effect outweighs the probative value³⁸.

A lawyer for the other side may try to prejudice the court against your witnesses or inflame the court with wild or extremely disturbing facts that attack human emotion in a way that may tend to influence the court’s decision contrary to reason and the facts.

In such circumstances, you object, “Objection, your Honor. The prejudicial effect of this testimony completely outweighs any probative value it might have.”

Prejudicial testimony may be relevant³⁹ and yet excludable upon objection if, as stated, its prejudicial effect outweighs its probative value.

An example might be a gruesome photograph of horrendous injuries suffered by a young child involved in an automobile accident. Hospital bills and testimony of physical therapists as to the degree of impairment the child will suffer are admissible evidence of the child’s damages, without bloody photographs of mangled limbs that could serve only to influence the court to award greater money damages than the circumstances may truly warrant.

The offer to produce such a shocking photograph will result in your complaining, “Objection, your Honor. The probative value of this evidence is outweighed entirely by the shocking, prejudicial influence it is likely to have on the court.”

More commonly, prejudicial evidence will be offered to undermine the court’s confidence in your honesty or the merits of your case. You might hear something like

³⁸ Probative value means, simply, power to prove. One fact is probative of a second fact if knowledge of the first fact tends to influence the court to believe the second fact.

³⁹ Relevance is discussed in a later chapter.

this, as opposing counsel for the defense examines one of your own plaintiff witnesses.

“Isn’t it a fact that the plaintiff owes you money?”

Or, “How often in the past ten years has the plaintiff failed to pay your wages on time?”

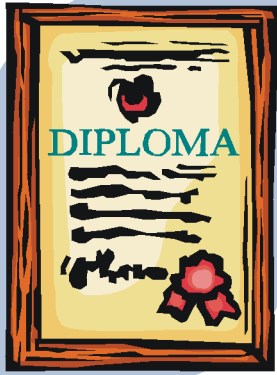
Or, worse yet, “Is it true that the plaintiff cheats at golf?”

Don’t let this sort of thing slip past you. If the testimony is prejudicial, if it tends to influence emotion more than reason, if it has the unwanted effect of encouraging the court to rule against you in spite of the facts and the law, object.

You may not convince the court to put a stop to it, but you will preserve your objection for appeal.

And, who knows?

That may be the turning point in your case!



Qualifications

If a lay witness is invited to offer an expert “opinion” about a particular matter, object on the ground that the witness is not qualified to offer expert opinions.

Lay witnesses are not experts by definition.

Expert witnesses, on the other hand, must first be qualified by court approval. Then and only then can their opinion can be offered.

Lay witness opinions are permitted as to matters based on personal knowledge and observation of the lay witness where, according to the United States Supreme Court, they are “rationally based on perception and helpful to a determination of a fact in issue.” Lloyd v. American Airlines, 537 U.S. 974 (2002). Thus, a lay witness may be qualified by showing that he or she has personally perceived what they are called upon to testify, and what they can offer will be “helpful to a determination of a fact in issue”.

Expert opinions, on the other hand, cannot be obtained from lay witnesses.

Experts can only testify as experts if they are offered as experts and subsequently qualified as experts by the court (after both sides have an opportunity to *voir dire*⁴⁰ the expert as to his or her qualifications).

If opposing counsel offers an “expert witness”, object before questioning begins. Move the court for an order allowing you an opportunity to examine the witness outside the hearing of the jury to determine if the witness is qualified to testify as an expert. If the court finds the witness is qualified to testify as an expert, object and renew your objection at the close of your opponent’s presentation to preserve your objection (unless it’s clear the witness does have the requisite qualifications to testify as to the questions asked, in which case your objections will probably be to no avail).

If opposing counsel begins questioning an expert witness about matters outside his or her qualifications, object ... and, if the judge overrules you, renew your objection at the close of your opponent’s questioning and again at the close of his presentation.

⁴⁰ Just a fancy word that means to examine by questioning.

Expert opinions should not be permitted from witnesses who have not first been qualified by the court and designated as expert witnesses.

A lay witness, on the other hand (unless he or she has first been qualified by the court based on medical education or experience), for example, should not be permitted to answer the following question. “Did your grandmother have a brain tumor?”

She may answer, “Dr. Cutsalot said my grandmother had a brain tumor,” but this response is hearsay and calls for a different objection. She is not qualified to testify as to any such medical opinion unless she has first-hand knowledge *and* has been qualified by the court to testify as an expert.

If you spend time in your local courthouse observing hearings and trials of other people’s cases (an excellent, educational experience, highly recommended), you will see lawyers crossing the expert line left-and-right.

It’s done all the time and, all-too-frequently, without objection.

However, if *you* don’t want unqualified expert testimony to be heard, you must be on your toes and *object!*

What a lay witness *thinks* happened is objectionable on the grounds it calls for speculation⁴¹.

What a lay witness *was told* about what happened is objectionable on the grounds it constitutes hearsay.⁴²

The only testimony a lay witness should be permitted to give (unless you *want* the testimony to come in anyway) is what the lay witness learned through his or her five senses, i.e., what the witness:

- saw,
- heard,
- felt,
- smelled, or
- tasted.

If a lay witness is called upon to testify as to matters beyond the reach of these five sensations *personally*, and none of the other objections (hearsay, competence, etc.)

⁴¹ See speculation.

⁴² See hearsay.

serve the purpose, your response should be, “Objection! This witness is not qualified as an expert!”

Experts can testify to hypothetical facts related to the issues of the case, but when they testify as to what they saw, heard, felt, smelled, or tasted, they are testifying as lay witnesses ... even though they have been qualified to testify as experts.

Know the distinction.

Don’t let an expert witness give lay testimony, unless he or she personally has first-hand knowledge of the facts alleged.

Don’t let a lay witness give expert testimony, unless he or she first submits to be examined and succeeds in being qualified as an expert.

If an expert witness gives lay testimony about a fact he or she has not personally observed through the use of one of the five senses, object!

If a lay witness gives expert testimony without being first qualified by the court to testify as an expert, object!

If a witness is asked or begins to testify what she perceived by supernatural or psychic powers, jump to your feet at once *and preserve your objection for appeal!*⁴³

⁴³ If you anticipate such high-jinks in your case, be prepared beforehand with controlling appellate court decisions that disallow such foolishness. Otherwise, the nonsense may be admitted. Who knows? Perhaps the judge reads tea leaves! Don’t take the chance. Be prepared with controlling cases.



Relevance

Unless a fact fits in some way with the issues in a case, like a bolt fits the nut it was designed for, it is said to lack relevance.

If it doesn't fit it has no place in your lawsuit.

If it doesn't fit, it can only damage your case.

Any fact that's not relevant to the issues in controversy is objectionable.

Every attempt to offer such a fact should trigger your objections (unless the fact will tend to help your case).

Relevant facts are sometimes called material facts.

Such facts are those that tend to prove or disprove an issue in controversy.⁴⁴

For example, whether Uncle Marty was a member of the Boy Scouts when he was younger and earned Eagle Scout recognition might tend to influence the court that he is trustworthy, loyal, helpful, courteous, etc. However, it probably is not relevant to the outcome of a case involving copyright infringement or personal injury resulting from an automobile accident.

If it isn't relevant (and it won't help *your* case) object.

"Objection. Relevance. The past camping and wildlife experiences of this witness have no bearing whatever on the issues in this lawsuit."

When the other side tries to bring in irrelevant facts, ask yourself, "Why?"

There is almost always a reason.

And, the reason is seldom good for your side – or the other side would not be trying to get it into evidence before the court.

Many times, crooked lawyers will offer irrelevant facts just to muddy the water.

They will try to make your case more complex than it needs to be.

They will try to confuse the court.

They will try to get the judge to consider matters that have nothing to do with the issues being tried, i.e., the issues stated in the pleadings.

At the first sign of such high-jinks, jump to your feet.

⁴⁴ Issues in controversy are those set out by the pleadings, i.e., the ultimate facts alleged by the parties. No other issues should be allowed.

“Objection. Relevance.”

Do not let it continue.⁴⁵

Suppose the other side calls a witness and begins, “Mr. Seenoevil, were you present last Tuesday when my client climbed into the sycamore tree in his front yard?”

“Why, yes, I was, as a matter of fact, and I saw Miss Showsalot wandering in her backyard next door wearing nothing but a bikini, sunglasses, and a pair of flip-flops!”

“Was Miss Showsalot watching Mr. Seenoevil climbing his sycamore tree?” the lawyer against you continues.

“No, she was talking to her poodle and staring at me,” the witness explains.

“What color was her bikini?” the lawyer asks.

Had enough?

If none of this has anything to do with Mr. Seenoevil and his sycamore tree, then you stand to your feet and call out a confident, “Objection. Relevance.”

The judge may be enjoying his imaginations, but unless the lady next door or her fluffy dog have something to do with what your case is about, that testimony is irrelevant and, therefore, objectionable. The judge should put a stop to it, even if he secretly wants to learn more.

Some lawyers do this to drag out the time so they can pad their client’s bill.

Some do it to entertain the court, thinking they will thereby be seen as “likable”, hoping a sense of humor will win some points for their position.

Others do it to distract the court from evidence that might favor your side of the argument.

If testimony or other offered evidence can have no bearing on the material issues in your case, object on the grounds of relevance.

It often helps to explain to the court that allowing such facts to come in will only prolong the proceedings without adding any probative benefit.

⁴⁵ I remember a deposition some years ago when the lawyer on the other side got my client off on a friendly talk about how his grandmother made brownies. The lawyer and my client talked recipes for a minute or two when suddenly the lawyer slipped in a question that would have had damaging consequences if I’d not objected in time. His question had nothing to do with baking, but by “chatting” about innocent matters for a minute or two he managed to disarm my client into thinking he was a nice young man. He wasn’t a nice young man at all. He was the bank’s lawyer out for blood! Keep this in mind, when the lawyer on the other side turns friendly with a witness and starts talking about non-relevant matters. Object at once. Put a stop to it as I did, before the damage is done.

Courts are protective of their dockets and usually don't want to allow anything that wastes their precious time.

Tell the judge the other side is offering irrelevant facts for an improper purpose, to delay the proceedings or to confuse the court.

You'll probably get the ruling you want, and the abusive tactics will stop.



Speculation

When your opponent asks a witness, “What was the doctor thinking?” or, “Was the victim happy?”, your response should be, “Objection! Calls for speculation!”

To use this objection effectively, however, you need to be on-your-toes, because questions of this kind come out of nowhere and, before you know it, the witness has told us what someone else was thinking or feeling ... contrary to the rules.

The only person who can tell the court what someone was thinking or feeling is the person who was doing the thinking or feeling ... not someone else!

Every such question deserves your response, “Objection. Calls for speculation.”

This is, perhaps, the hardest question to catch, because it can be woven into a complex witness examination in ways that may fail to arouse your suspicion.

As with all objections, you must listen attentively and be prepared to object *before the testimony is uttered*.

What’s the basis?

Competence.

Who knows what you are thinking ... other than yourself?

No one!

Who knows if you are happy or sad ... you or someone looking at you?

No one!

A person’s state of mind or emotions may be guessed at from the look on their face or from the things they say or do, but the true thoughts and feelings behind the face are known only to the soul within and the Maker who watches from on high ... not some witness in the box!

Lawsuits are (or should be) a search for truth.

All such questions are objectionable on the ground they “*call for speculation*”.

The only way someone can say what you or anyone else might have been thinking at a particular time is to *speculate* ... i.e., to guess.

Guessing isn't evidence⁴⁶.

Just because someone is smiling doesn't mean they are "happy".

Just because someone isn't smiling, doesn't mean they are "unhappy".

Actors on stage or screen smile brightly with mouthfuls of blindingly shiny white teeth, when they're miserable inside, worrying about some happening at home or whether they'll have a job next week.

Others frown with the most despondent gloom imaginable on their faces, when they are secretly joyful and perfectly elated with their lives.

The smile or frown on a person's face does not necessarily reflect the "feeling" in their heart – nor do their actions or the things they may say in public.

Since a witness on the stand at a hearing or trial (or at deposition) can only testify to facts about which the witness has first-hand knowledge, it may be proper to ask, "Was the victim smiling?" That requires no supernatural inquiry into the inner-workings of a person's heart or mind. A smile is a smile (though, of course, they come in many flavors).

But, to ask a witness what someone else was feeling at a particular time is to ask a question that good judges will not allow – *if you object in a timely manner!*

Similarly, no witness can testify as to what someone else may or may not have been thinking at a particular time, however this *will* happen in your case ... frequently.

The problem for you is that it will come in surprisingly insidious⁴⁷ forms, seldom outright and in the open.

The opposing lawyer will sneak the question in on you when you are least likely to catch it and, if you aren't quick with your objection, the witness will answer in ways you do not want.

Whether it's ignorance of the rules on the other side's part or intentional trickery to unjustly influence the court, you should never allow such answers to be given *unless they favor your side of the dispute*.

Witnesses should only be allowed to testify to what *they* feel, what *they* know.

⁴⁶ A witness who's been qualified as an expert witness (as opposed to a fact witness called upon to testify as to first-hand knowledge) may be called upon to offer an opinion based on facts presented to him or her, however even an expert is unqualified (incompetent) to testify as to what another is thinking or feeling. Don't put up with it!

⁴⁷ Like a snake in tall grass.

The questions presented by your opponent will be cleverly phrased to catch you off guard.

For example, consider the following:

- When the doctor snapped off his rubber gloves angrily after the operation and tossed them disgustingly into the trash, what was his attitude?
- As you stood there by the side of the road, watching people gather to gaze in wonder at that horrible, bloody carnage, what was the atmosphere?
- At any time during the attack on the golf course that day, did you feel your assailant was trying to prove a point by striking you with his 9-iron?

See what I mean?

None of these directly asks what someone was thinking or feeling, yet each and every one of them is objectionable ... because they require the witness to speculate.

It is impossible for the witness to know *first-hand* what the doctor's attitude was, or what the people in that crowd were thinking or feeling, or what might have been in the mind of the club-wielding golfer. Only the doctor, the crowd, or the golfer can answer these types of questions.

Competence.

Remember: No one is competent to testify about facts beyond *his own personal knowledge!*

Yet, failure to object will cause two (2) problems.

- 1st ... the testimony will be heard
- 2nd ... you won't be able to object on appeal if you don't object when it happens

Nor is objecting afterward and asking the judge to strike the testimony going to do much to repair the damage. As we've said again and again, once judge and/or jury hear testimony, it is sheer folly to imagine they can erase the memory. For a judge to instruct the jury to, "Disregard that last answer," can serve only to underscore the words in their mind so they'll stand out more during deliberation than they would have if you'd just let the testimony slip by.

The problem with letting such testimony slip by is that, unless you make a timely objection, you will not be allowed to complain to the appellate court later that unwanted words should not have been allowed.

Appellate justices are not psychics.

They know only what the printed record tells them.

Fail to object, and you lose your power for appeal.

When the opposition asks a witness, “When did the driver first decide to turn down the unpaved highway?” stand *immediately* to your feet and, even before you reach your full height, blurt out quickly:

“Objection! Calls for speculation!”

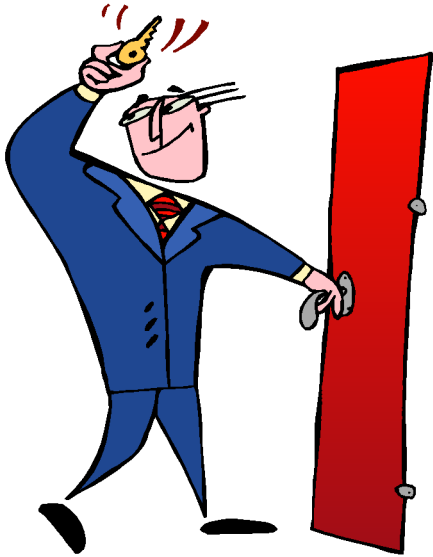
The witness lacks competence to testify when another person decided anything. It could have been mere seconds before turning the steering wheel or months earlier. Only the driver knows. And, only the driver can testify as to the time of his own decisions.

Don’t allow the opposition to pollute the record of your lawsuit with testimony that lacks competence.

Testimony that calls for speculation lacks competence.

Object!

Conclusion



Now that you've finished this little book, you hold the golden key to successful objections in court.

You know how to make and respond effectively to most objections you'll encounter.

You know the more common objections lawyers use.

You know what they do.

You know how to make them.

And, you know when to make them.

We covered objections you're likely to encounter in a typical lawsuit. The total number of objections that could be made is limited only by the varied circumstances where the judge has or is about to allow something contrary to the essential requirements of justice.

In all such circumstances you must object.

Effective objections will:

- prevent what's about to happen (if timely made and sustained by the judge), and
- notice the appellate court that you opposed what happened when it happened.

Objections are like sign posts along your lawsuit highway.

They notify the court that you oppose something the other side has done contrary to the essential requirements of justice and, hopefully, they stop the court from allowing it or, if the judge disagrees, your objection makes a record for the appellate court to see that something allowed should not have been allowed ... *and that you objected to it in a timely manner, thereby preserving your record for success on appeal, if necessary.*

In both circumstances your objection makes a record showing you understand the rules and demand that the rules be obeyed by your opponent ... and by the judge.

Objections, if successful, prevent the court record from being polluted with facts that can fatally damage your case.

Objections, if not successful, establish your right to be heard on appeal.

Fail to object *in a timely manner* and you lose your right to appeal.

Objections – coupled with proper pleadings, proof, and procedure – lay a strong

foundation for successful appeal and encourage the lower court judge to rule in your favor, rather than run the risk of being reprimanded by a higher court.

Effective objections reduce the likelihood of appeal being necessary.

Objections put the judge on notice you're preparing for appeal, that you recognize when errors are made, and that you won't sit idly by and let the judge permit those errors to pollute the record and damage your case.

Objections let the judge know he must run his courtroom in accordance with the essential requirements of justice or be set straight by a panel of appellate justices whose duty is to ride herd on crooked and stupid judges.

That may seem an overstatement, but it is the way things are.

That's what objections do.

And, that's why we have appellate courts.

You've just learned the more commonly encountered objections, but by no means have we covered all possible objections that may be raised in a lawsuit.

The total number of possible objections is limited only by the number of errors, crooked deals, and corrupt practices one sees in the typical trial level courtroom, where too often we find a theatre for incompetence and legal chicanery.

American courts can only be controlled by those willing to abide by The Rule of Law and control their adversaries with a wise application of the principles and practices of American due process through timely objections that make a clear record for appeal.

The foregoing gives you a starting point for understanding objections, but there's no substitute for *practice*!

If there's a Club near you, join and learn lawsuit practice and procedure with likeminded friends.

Among the activities of the local clubs, you will share with friends practicing objections and other courtroom techniques as you learn the way of winning lawsuits.

Don't let the other side pollute the court record in your lawsuit with trickery and fraud that seeks to evade the rules unjustly.

Control your judge and overcome crooked lawyers and deceitful opponents.

Object and renew your objections when necessary to preserve them for appeal!

This is how you win!

As with everything we teach in our step-by-step course, you are encouraged to dig deeper by reading the decisions of controlling appellate courts that will more fully outline the details and parameters of these and other objections and legal doctrines. This little book, while certainly valuable to give you a grasp of the fundamentals, is no substitute for legal research that explores the principles and opinions that control the judge in your local jurisdiction. What you find will agree with what we've offered but will go into much greater detail ... and, more importantly, will give you the power to control your judge by alerting him or her to the *controlling* opinions of his higher courts.

Never let the other side get away with anything that injures your case.

Object.

And, when you object, be prepared to explain in detail, with supporting appellate court opinions, why your objection should be sustained.

If the judge refuses to rule, move the court to rule, so your record is clear that his or her failure to rule was *intentional* ... a clear judicial error that will be corrected on appeal, if failure to rule on your objection causes harmful error in your case.

Finally, if the judge overrules your objection or refuses to rule, be certain to *renew* your objections as explained in the foregoing pages.

Object.

By all means, object.

But, with all your objecting, be sure to *preserve* your objections for appeal!

This *is* how you win lawsuits!



The Lady with the Lamp of Hope also holds the Book of Justice!

We are bringing the Rule of Law and the principles and practices of due process to the People, teaching America what Justice is, how to get it, and how to preserve it for future generations.