

Standard Objections

Irrelevant Evidence “I object, Your Honor. This testimony is irrelevant to the facts of the case.”

This means that the witness’s answer, the attorney’s original question, or the exhibit will not help the trier of fact to decide the issues in the case.

Leading Questions

“Objection. Counsel is leading the witness.”

Leading the witness is only objectionable when done on *direct examination*. Leading questions are proper on cross examination. A leading question is one that suggests the answer to the question and is usually answered by “yes” or “no.”

Hearsay

“Objection. Counsel’s question (the witness’s answer or the exhibit) is based on hearsay.”

Hearsay is a statement made outside of the courtroom. Statements that are made outside of the courtroom are usually not allowed as evidence if they are offered in court to show that the statements are true.

The most common hearsay problem arises when a *witness is asked to tell what another person said to him or her*.

There are many exceptions to the hearsay rule. Two of the most common are

a. That a witness may repeat a statement made by either party in the case if the statement contains evidence that goes against his or her side;

OR

b. If a person’s state of mind at the time of a certain event is important, any statements made about that event at the time the event occurred concerning the speaker’s intent, knowledge, or belief will be admissible.

Lack of Personal Knowledge

“Objection. The witness has no personal knowledge that would enable him or her to answer this question.”
The witness is testifying to things that the witness has not directly seen, heard, or experienced.

Opinion

“Objection. Counsel is asking the witness to give an opinion.”

Unless it is within the common experience of people to form an opinion on the subject, opinions will not be allowed.

Expert witnesses may give opinions, if they explain the basis for the opinion, which is called “laying a foundation.” An expert witness is someone who by training or experience has special knowledge in the case.

Argumentative Question

“Objection. That question is argumentative.”

Attorneys cannot badger or argue with the witness. Questions may also not be argumentative in tone or manner. Badgering is harassing or asking again and again. While attorneys questioning the other

side's witnesses can be forceful and pressing, if they go too far a judge will sustain an objection for being argumentative.

Speculation

"Objection. Counsel is asking the witness to speculate in order to answer the question." Attorneys cannot ask questions that get witnesses to guess at answers.

Assuming Facts Not in Evidence

An attorney may not ask a question that assumes unproven facts; however, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence sometimes called a "hypothetical question").

Special Rule for Mock Trials

An opposing witness cannot create new facts that would change the outcome of the case, although witnesses can add minor details. If the attorney believes a witness has gone beyond the information provided and is providing new information that is totally out of character and will change the outcome of the trial, first try to impeach. Impeaching a witness lets you point out the issue using their affidavit. Then, if still needed, use the following objection:

"Objection. The witness is creating material fact that is not in the record."

Hints on Objections Attorneys should object only when they are sure there is a reason and they have a specific objection in mind. Remember, too many objections during a trial are objectionable!