



THE JOHN MARSHALL LAW SCHOOL

OBJECTIONS: There are various objections one can raise in the course of a trial. However, for the purposes of this competition, only the below objections will be allowed:

- 1. Leading the witness:** This occurs when the questioner suggests answers during questioning. This objection should only be raised on direct examination. On cross-examination, counsel should ask leading questions. Used on Direct.
- 2. Asked and Answered:** This occurs when the question being asked was asked and answered already. Used on Direct/Cross.
- 3. Beyond the scope:** Occurs when the question on cross examination does not relate to what was asked during direct examination. Used on Cross.
- 4. Speculative/Speculation:** This occurs when counsel is asking a question that calls for a witness to guess at the answer. However, it is ok for a witness to give estimations based on personal knowledge. Used on Direct/Cross.
- 5. Relevance:** occurs when either the question asked, or the answer given does not relate to the case at hand. With a relevance objection, the questioner should give a reason why the question or the witnesses answer should be allowed. Then at that time the judge will decide. Used on Direct/Cross.
- 6. Narrative:** Occurs on direct examination when the witness goes on and on about something after answering a question. The testimony may be improper – either letting in hearsay, or some other objectionable testimony. This usually happens after counsel asks a simple question, and the witness continues to talk after answering the question. Used on Direct.
- 7. No Foundation:** There must be preliminary facts that have been introduced before certain evidence is brought into the trial. Usually happens with exhibits. The questioner should lay proper foundation, or the evidence will not be admitted. The court needs to know what an exhibit is, and how the witness knows about the document. Used on Direct/Cross.
- 8. Assuming Facts not in Evidence:** This happens when the questioner brings up something the witness has not testified about. Example: You were more than 50 feet from the skid marks weren't you? If there has been no evidence of skid marks then the above question is improper. Used on Direct/Cross.
- 9. Compound Question:** Asking two questions in one. Example: "Were you wearing a black coat and black pants when you were attacked?" Used on Direct/Cross.
- 10. Misstating the Law:** The attorney is quoting the law incorrectly. Because they are getting it wrong, you should object. Used on Opening/Closing.
- 11. Badgering the Witness:** It happens when the attorney is not being civil with the witness. If the questioner is asking questions in a hostile manner, or harassing the witness, they are likely badgering the witness. Used on Cross.



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SPECIAL PROCEDURES

Introduction of Documents or Physical Evidence

Special procedures must be followed by the parties if they wish to offer as evidence letters, preliminary hearing testimony, or other documents.

Step 1: Attorney says to the Judge, “Your Honor, I am marking this (letter, document, item) for identification as (Plaintiff’s Exhibit A, Defense Exhibit 1, etc.).”

Step 2: Attorney shows the item to opposing counsel.

Step 3: The Judge will ask if opposing counsel has any objections, at which time it is opposing counsel’s option to object or not object to this piece of evidence being used at trial.

Step 4: Attorney shows the item to the witness and says, “Do you recognize this item marked as Peoples Exhibit X”... Witness responds by saying “Yes or No”.

Step 5: If witness answers “Yes,” Attorney asks “Can you please identify this item for the court” and the witness gives the appropriate identification of the item.

Step 6: Attorney may now ask the witness questions about the document.

Step 7 (Optional): If the attorney wishes the court to consider the document itself as part of their evidence, then the attorney must move the document or item into evidence. This is accomplished by the Attorney saying “Your Honor I am moving this document/item into evidence, and ask that the Court admit it.”

Impeachment

On cross examination, when the attorney wants to show that the witness should not be believed because the witness is lying, attorneys often use a process called impeachment. In order to impeach the witness by comparing information in the preliminary hearing testimony to the witness’ testimony, attorneys should use the following procedure:

Step 1: Introduce the witness’ preliminary hearing testimony for identification

Step 2: Repeat the statement the witness made on direct examination that contradicts their preliminary hearing testimony.

Step 3: Ask the witness to read from their prior testimony the part that contradicts the statement made on direct.

Step 4: Dramatize the conflict in the statements.

Adapted in part from:

Mauet, Thomas A., *Trial Techniques*. 6th Ed. Aspen Publishing, 2002.

McElhaney, James W., *I Object! An Expert’s list of basic trial objections*. ABA Journal, November 1992, pg 90.