

OBJECTIONS

If someone offers testimony or exhibits that you do not want the judge to consider, you can **object**. However, you cannot object just because you do not like what the person is presenting. You must have a reason, based upon the rules of evidence. There may be exceptions to some rules (*i.e.*, hearsay), so make sure to research this topic ahead of time if you plan to raise specific objections.

If you are presenting your case and someone else raises an objection, you may respond. Then wait for the judge to **sustain** or **overrule** the objection before proceeding. If the judge sustains the objection the evidence will not be admitted. If the judge overrules the objection the evidence will be admitted.

Common Objections

During the hearing there are specific objections that can be made. This is **NOT** a comprehensive list, but common objections include:

- Hearsay
- Relevance
- Lack of foundation
- More prejudicial than probative
- Assumes facts not in evidence (speculative)
- Ambiguous
- Asked and answered (repetitive, cumulative)
- Badgering/argumentative
- Compound question (asks 2 or more questions within a question)
- Leading question (for direct examination)

Hearsay. The most common rule of evidence used to object to both witness statements and exhibits is “hearsay”.

Hearsay is an out of court statement made for the truth of the matter asserted.

For example, imagine that someone tries to use a letter stating the opinion of a person who is not in court. That person cannot be questioned, so the opposing party cannot test whether the person making the statement is reliable, or whether the letter is authentic. This is an example of hearsay.

Hearsay Exceptions

Sometime there are exceptions to the prohibition on hearsay. If a hearsay exception applies, the evidence may still be considered.

Hearsay exceptions include:

- Statement by opposing party
- Excited utterance
- Present sense impression
- Statement made for medical diagnosis
- Business Record

Presenting Evidence in Court



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This pamphlet is intended to provide a brief overview of **how to present evidence** in a court proceeding. Evidence is a complex subject, and many details are not included in this pamphlet. To learn more about evidence, you should consult with an attorney and familiarize yourself with the Colorado Rules of Evidence.

WHAT IS EVIDENCE?

Evidence is any information presented in support of a statement or claim. Evidence includes witness testimony, exhibits (e.g. documents, recordings or other physical evidence), and more. In court, evidence must be:

- relevant;
- authentic; and
- admissible.

HOW DO I ADMIT EXHIBITS INTO EVIDENCE?

Exhibits must be “admitted into evidence” for the court to consider that information in making its decision.

Some cases require pre-disclosure of exhibits, so make sure to follow any specific orders issued by the judge in your case.

To admit an exhibit into evidence:

Bring at least 4 copies to court (for yourself, any opposing party, and the witness, along with the original for the court). You may present your exhibits in an “exhibit book” (i.e., a binder containing your exhibits). If you do, make sure to bring 4 copies of your exhibit book, and pass your books out at the beginning of the trial or hearing.

Step 1. Mark exhibit. Exhibits can be pre-marked or you can write on the exhibit during the hearing and say “I am now marking this Exhibit 1.” Petitioner/Plaintiff exhibits are marked with numbers (Exhibit 1, 2, etc.). Respondent/Defendant exhibits are marked with letters (Exhibit A, B, etc.)

Step 2. Show the exhibit to the other party/opposing counsel. Say: “I am now showing the opposing party Exhibit 1.” Hand a copy to the other party, unless (s)he was given a set of your exhibits before the hearing.

Step 3. Give a copy to the judge. Ask the judge for permission to approach the bench. Say: “Your Honor, may I approach the bench?” If the judge says “You may” then give the judge a copy of the exhibit.

Step 4. Give a copy to the witness. Ask the judge for permission to approach the witness. Say: “Your Honor, may I approach the witness?” If the judge says “You may” then give the witness a copy of the exhibit.

Step 5. Show the exhibit to the witness. Say: “Witness, please look at the document marked Exhibit 1. Do you recognize this document?”

Step 6. Lay the foundation for the exhibit. (See Foundation for Exhibits)

Step 7. Offer the exhibit into evidence. Say: “Your Honor, I offer Exhibit 1 into evidence.”

Step 8. Wait. The opposing party may object (See “objections”). You can respond. The judge will **admit or deny** the exhibit.

FOUNDATION

Witnesses. A witness can only testify about what (s)he has personal knowledge of, not what someone else told him or her. Have a series of questions prepared for your witness to demonstrate:

- who the witness is;
- what the witness knows and how they know it; and
- how the testimony is relevant to the case.

You may want to read about differences between “lay witnesses” and “expert witnesses”.

Exhibits. Exhibits must be presented in a format that can be left with the court (i.e., text message or emails must be printed, audio or video recordings must be stored on a disc or zip drive). For exhibits to be admitted into evidence, the exhibit must be relevant and authentic. “Relevant” means it pertains to a question before the court. Authentic means the exhibit is what it claims to be and is reliable (i.e., not a forgery). An exhibit can be authenticated by a witness who testifies that (s)he:

- recognizes the exhibit,
- knows what the exhibit looked like previously, and
- knows this exhibit is basically the same as the last time the witness saw it.

WHERE CAN I LEARN MORE ABOUT THE RULES OF EVIDENCE?

- The Rules of Evidence (CRE) are on the court’s website: [http:// www.courts.state.co.us/resources.cfm](http://www.courts.state.co.us/resources.cfm) (Colorado Court Rules → Colorado Rules of Evidence)
- You can talk with an attorney.