Types of Objections in Court: A Guide

Written by Andy Younes

“Your Honour, objection!”

Even those who are not lawyers have likely seen this scene in a TV show or movie — or in an Australian legal drama like*Rake* or *Janet King* — where a trial lawyer objects to the opposing counsel’s question or the witness’s testimony. While objections may be less dramatic in real life, trial lawyers (including barristers and solicitors involved in litigation) must undoubtedly understand how to use different types of objections in court.

In this guide, we provide a list of the most common types of objections, along with examples. We also address how and when objections should be used during trial. Finally, we cover how you can prepare for objections in court.

Disclaimer: This is not an exhaustive list of every objection, and the success of an objection is circumstantial. We can’t guarantee that your objection will be successful or that your objection is well-advised. The judicial officer may overrule your objection in court, depending on the specific circumstances and jurisdiction.

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Types of objections

What is an objection?

An objection is a formal protest by a lawyer against evidence, testimony, or a question from the opposition, raised in trials, hearings, and fact-finding proceedings. The key difference in trials is that the judicial officer rules on objections, either sustaining (disallowing) or overruling them.

10 Common objections in court

1. Relevance

A relevance objection is based on the argument that the evidence is not relevant to the case. Evidence is only considered relevant if it has some value in proving a significant matter. Relevance objections seek to prevent jurors from being distracted or influenced by information that does not pertain to the legal matter at hand.

Under s55 of the Evidence Act 1995, evidence is relevant if it could rationally affect the assessment of the probability of a fact in issue. However, even relevant evidence may be excluded under *s135* if its probative value is substantially outweighed by the danger of unfair prejudice, misleading the court, or causing an undue waste of time. When ruling on objections relating to relevance, judges must carefully weigh these competing considerations. The outcome can vary significantly depending on the specific circumstances of the case, making such decisions inherently discretionary and often subjective.

Example of relevance

A party may attempt to introduce evidence that the defendant was convicted of embezzlement 20 years ago, arguing that it makes it more likely the defendant engaged in fraudulent conduct in the current case. While this evidence may have some relevance under *s55*, the opposing party could object under *s135*, arguing that the probative value is outweighed by the risk of unfair prejudice. The judge may agree that the prior conviction could improperly sway the jury to believe the defendant has a propensity for dishonesty, and therefore exclude it.

2. Leading question

This objection is raised when a lawyer asks a question that suggests the desired answer or puts words in the witness's mouth. Leading questions are prohibited during direct examination, although exceptions are made for background information. However, leading questions are allowed on cross-examination and for hostile witnesses or adverse parties.

Example of leading question

"Isn't it true that the defendant was clearly drunk that night?" is an example of a leading question.

3. Compound question

This objection is used when a question contains multiple inquiries, confusing the witness or making it hard to answer clearly. The court typically requires breaking the question into simpler parts.

Example of compound question

"Isn't it true you visit the Looney Bar every Wednesday, and you were there until 2am that night?" is technically two questions in one.

4. Argumentative

A question can be objected to as being argumentative when it does not seek new information, but instead seeks to have the witness agree with an inference or conclusion. This objection can also be raised as "badgering the witness."

Example of argumentative

A lawyer asking "Do you expect the jury to believe someone who lives in your neighbourhood can afford a luxury car?" is argumentative. This question does not seek information. Instead, it simply challenges the witness to attack their credibility.

5. Asked and answered

This objection is raised when a lawyer asks a question that has already been asked and sufficiently answered. The goal of the objection is to prevent repetitive questioning on the same point after it has been sufficiently answered. While not expressly in the Evidence Act, courts manage questioning to ensure efficiency and fairness.

Example of asked and answered

Examiner: "So you drove from Sydney to Melbourne on November 8th?"

Witness: "That is correct"

Examiner: "So you arrived in Melbourne on November 8th?"

Witness: "Yes."

Examiner: "So you didn't stay in Sydney on November 8th?"

6. Misleading

When a question is misleading, you can object on the grounds of it being vague. A vague question makes it difficult for the witness to provide a meaningful answer. These objections are typically phrased as "objection, the question is vague," "ambiguous," or "misleading." While not explicitly outlined in the *Evidence Act 1995 (Cth)*, courts have a general discretion to exclude questions or evidence that may mislead, confuse, or waste time under **s135**.

Example of misleading/vague

"Tell us about the incident." Here, the opposing party may object, arguing that the question is overly vague and should be clarified.

7. Speculation

"Calls for speculation" is an appropriate objection to a question that requires the witness to guess or speculate on an issue where they do not possess direct knowledge. Lawyers can also raise the "speculation" objection if a witness is speculating with their testimony, regardless of the question they are responding to.

Example of speculation

If a lawyer asks "What do you think the defendant's intentions were?", it is a clear call for speculation.

8. Hearsay

Hearsay is an objection to evidence that relies on secondhand information—such as what the witness heard someone else say—rather than firsthand knowledge. The jury cannot assess the credibility of the individual making the statement and there is no chance for cross-examination, so this evidence is typically prohibited.

However, there are numerous exceptions to the hearsay rule under the *Evidence Act 1995 (Cth)* and its state equivalents. These include exceptions for admissions, prior statements, contemporaneous statements about health or feelings, business records, and statements made in the course of duty, among others.

Example of hearsay

If a witness testifies, "I heard from a friend that the defendant was at the scene," this is inadmissible hearsay unless it falls under a hearsay exception.

9. Privilege

You can object to any question that seeks information protected by a form of privilege, such as the lawyer-client privilege. Since maintaining privilege is one of the ethical duties of a lawyer, these objections are usually sustained.

Example of privilege

The examining lawyer asks "What discussions have you and your lawyer had relating to the settlement of this case?"

10. Opinion

Opinion is an objection to evidence where a non-expert witness offers a personal belief or conclusion, rather than stating observed facts. Under *s76 of the Evidence Act 1995 (Cth)*, opinion evidence is generally inadmissible unless the witness is qualified as an expert.

However, s78 allows a layperson to give opinion evidence if it is rationally based on their perception of the events—for example, a witness describing someone as "drunk" based on slurred speech and unsteady movements.

Example of opinion

If a witness says, "He looked guilty to me," this would likely be objectionable as inadmissible opinion evidence. However, if the witness says, "He looked nervous—he was sweating and avoiding eye contact," this may be admissible as it describes observed facts and a rational impression.

Should you always object?

Assuming you have good grounds for making an objection at trial, should you always do so? There are reasons to be strategic about when you choose to object.

The ultimate goal of objections is to ensure your client receives a fair trial and has the best shot at winning the case. To a judge or jury, constant objections could make it appear as if you are struggling with the case or have something to hide. Accordingly, if a certain question or answer is technically objectionable but would not significantly impact the case, you may wish to refrain from objecting.

There are also times when objectionable testimony from the other side would actually help your client. Let's say, for example, the opposing party's witness is going to provide testimony that is damaging to their case. In that case, it may be better not to object and let the jury hear the statement.

Can you prepare for objections in court?

Jury trials are often unpredictable, so it is not possible to prepare for every potential objection. However, you can prepare ahead of time by knowing:

- The issues of your case
- The expected testimony of your witnesses
- The types of objections in court

Preparing for objections in court is far easier when you streamline the administrative aspects of your case, allowing time and energy to focus on case analysis and strategy.

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Final thoughts on types of objections in court

Any trial lawyer must familiarise themselves with the types of objections in court and how to use them appropriately. In addition, they must anticipate how these objections are likely to come up in their case. Lawyers should consider the legal and factual issues, as well as the anticipated testimony of the witnesses, to help prepare for objections.

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