

## Objections/Responses

<p><b>General Objections:</b> Direct or Cross – Form</p> <ol style="list-style-type: none"> <li>1. Argumentative, 611a (not ?'ing witness abt fact )</li> <li>2. Asked and answered, r.611a (this atty this ?)</li> <li>3. Assumes facts not in evid, r. 611a</li> <li>4. Calls for Hearsay - OOC offered for TOMA             <ul style="list-style-type: none"> <li>o <b>Exceptions: 801, 803, 804</b></li> </ul> </li> <li>5. Calls for Improper Opinion [701/702]</li> <li>6. Calls for Speculation, r 602; 701 –</li> <li>7. Compound question, r. 611a (two ?s posed as one)</li> <li>8. Cumulative, r. 403; 611a (covered &amp; already in evid)</li> <li>9. Leading, r. 611c - ok when matter prelim/undisputed; HW</li> <li>10. Logical Relevance, r. 401 - evid being solicited does not relate to merits of case or another admissible purpose</li> <li>11. Legal Relevance [403]</li> <li>12. More prejudicial than probative, r. 401-403 Prejudicial effect outweighs probative value</li> <li>13. Misstatement of the record (misquoting the witness)</li> <li>14. No foundation (proof witness comp to testify to a fact or doc) <i>good to make when you're sure the evidence about to come in is objectionable in some way but you're not sure how so...</i></li> <li>15. Ultimate Issue [704]</li> </ol> <p><b>Cross ONLY:</b></p> <ol style="list-style-type: none"> <li>1. Beyond the scope of direct, r. 611b,d (redirect only)</li> <li>2. No good faith basis for the question</li> <li>3. Improper impeachment</li> <li>4. Outside <b>Scope of Re-direct/Re-Cross [611d]</b> – not prev covered on direct and not relev to previous issues covered</li> </ol>	<p><b>Objections to the Witness's Answer:</b></p> <ol style="list-style-type: none"> <li>16. Cumulative [403]</li> <li>17. Hearsay [801]</li> <li>18. Hearsay within Hearsay [805]</li> <li>19. <b>Improper Character Evidence [404]</b></li> <li>20. <b>Improper Characterization</b> – [404-405] = <i>when Q/A 'crazy' – charged word w/ no meaning unless witness qualified – not usually helpful b/c draws attention and cements idea in mind of jurors</i></li> <li>21. Improper Opinion [701/702] –</li> <li>22. Lack of FOUNDATION [602] (personal knowledge)</li> <li>23. <b>MORE PREJUDICIAL THAN PROBATIVE [403]</b></li> <li>24. Relevance [401]</li> <li>25. Speculation [602/701] –lacks 1st-hand kldg of fact</li> <li>26. <b>Ultimate Issue</b> [704]</li> </ol> <p><b>Objections to Exhibits:</b></p> <ul style="list-style-type: none"> <li>• Lack of Authentication, 900/901a (ID &amp; verif witness)</li> <li>• No foundation (Improper witness/proc)</li> <li>• Irrelevant / immaterial, 401 – 402</li> <li>• Hearsay, 801 – 807</li> <li>• Reading from / showing exhibit not in evidence</li> <li>• Reading from exhibit unfairly / out of context, 106</li> </ul>
<p><b>IMPORTANT LANGUAGE</b></p> <p>27. <b>More PREJUDICIAL THAN PROBATIVE [403]</b> – “evidence being introduced is highly prejudicial and this prejudice far outweighs the probative value” – one that hurts and is not relevant enough to the merits of your opponent’s case to be let in</p> <p>28. <b>RELEVANCE [401]</b> – evid being solicited does not relate to merits of the case or another admissible purpose such as foundation or permissible character evidence –</p> <p>29. <b>609</b> – past convictions under 609A(1)(b) – do not lend themselves to truthfulness and the probative value does not outweigh the unfair prejudicial effect to our client</p>	<ul style="list-style-type: none"> <li>• <b>Opinion</b> – witness has firsthand knowledge of which his opinion is based. Permitted when             <ol style="list-style-type: none"> <li>1) rationally based on the witness' perception;</li> <li>2) helpful to understand witness's testimony or determining a fact in issue; and</li> <li>3) not based on scientific, technical or other specialized knowledge</li> </ol> </li> <li>• <b>EOTL</b> - not hearsay under R 801, info not being offered TOMA but rather the EOTL – that they heard it and did or did not do something - goes to the veracity of his investigation and the credibility of his/her testimony</li> <li>• 803 (3) – then existing mental or emotional state</li> <li>• 803 (2) – excited utterance</li> </ul>

**MOVE TO STRIKE -- REMEMBER TO SIDEBAR (More prej than prob)!**