

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.

If you wish the Court to consider statements of a witness, that witness must be present at your hearing to testify.

Hearsay Exceptions

Sometimes there are exceptions to the hearsay rule. 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

If you have general questions about how to present your case, see resources below:

<https://www.justicecentercos.org/clinics>

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 talk with an attorney and read the Colorado Rules of Evidence.

WHAT IS EVIDENCE? Evidence is any information presented in support of a statement or claim. Evidence can be testimony, which is when you or witnesses you or witnesses testify in court. Evidence can also be an exhibit, which is when you give something to the Court to consider.

WHAT IS AN EXHIBIT?

An Exhibit can be printed photographs, documents, printed text messages, recordings or other physical evidence, and more.

HOW TO GIVE EXHIBITS TO THE JUDGE AND OTHER PARTIES? Exhibits must be presented in a readable (clear) format (without markings) that can be left with the Court (*i.e.*, photos, text messages or emails must be printed). If you have a video or audio recordings, bring it on a CD or thumb drive/flash drive and don't forget to bring something to play it on, like a laptop.

You should give your exhibits to the other side and to the court. Please review orders from your judge or ask questions at your pre-trial conference as to when the exhibits are due and how to exchange them. When you go to your hearing, bring four physical copies of your exhibits with you. That includes: one copy for the Court, One copy for the opposing party, one copy for a witness, and one copy for you.

HOW DO I ADMIT EXHIBITS INTO EVIDENCE?

When you file your exhibits, you have made them available to the Court and the other

side. Admitting the exhibits allows the Court to look at it and to consider that information in making its decision.

To admit an exhibit into evidence during a hearing:

Step 1. Label Exhibits: Stickers will be available in the courtroom to number your exhibits (if you are the Petitioner/Plaintiff) or letter your exhibits (if you are the Co-Petitioner/Respondent/Defendant). For virtual hearings mark and upload or file your exhibits prior to the hearing.

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. For virtual hearings your exhibit must be provided to the other party prior to your hearing date.

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. For a virtual hearing the judge must have access to your exhibit in the court file prior to the hearing.

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. For virtual hearings refer to the exhibit that you have provided to the other side prior to the hearing date.

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. For exhibits to be admitted into evidence, the exhibit must be relevant and authentic. 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.

Glossary of Court Terms:

<https://www.courts.state.co.us/Glossary.cfm>

WHERE CAN I LEARN MORE ABOUT THE RULES OF EVIDENCE?

- The Rules of Evidence (CRE) are on the court's website: www.courts.state.co.us/resources.cfm (Colorado Court Rules → Colorado Rules of Evidence)

- You can talk with an attorney.