

Common Objections

Leading: A leading question is a question which suggests the answer. In other words, the lawyer leads the witness to say what the lawyer wants the witness to say. Leading questions are appropriate during cross examination, but not during direct.

- Example: - After you went into the house, you saw the child on the couch?
- Were the lights on?
 - Was the house filthy?

Relevance: This objection is raised when the question or the witness' answer is not related to the allegations in the petition, a statutory factor or other certain and specific legal and factual basis of the case. The reason a relevance objection is sustained is often related to the allegations in the petition, whether the petition for adjudication or the petition to terminate parental rights. Parties have the right to be notified of what charges or allegations they must defend.

Lack of foundation: In order to testify about a particular event, the witness must have a basis to do so. This basis often comes from personal observation. In general, in order for a witness to testify about an event, the lawyer must lay a foundation for that testimony. This means that the lawyer will ask questions about the witness presence at the event (date, time, location), the identities of others who were also present and then ask questions about what the witness saw or heard. Lawyers must also lay the proper foundation for expert testimony or lay opinions from witnesses. If a lawyer wishes to admit a documents, such as a service plan, the lawyer must also lay the proper foundation.

Speculation: When a lawyer questions a witness about an event about which the witness lacks personal and direct knowledge, this objection will and should be made. Apart from certain exceptions, witness may only testify about what they personally observed or heard. Witness may generally not testify about how another person feels or thinks.

Hearsay: Hearsay is an out-of-court statement offered to prove **the truth of the matter asserted**. In other words, when the witness testifies about what he/she heard someone say, a hearsay objection may be made. The rules concerning hearsay are numerous and often misunderstood. There are also several exceptions to the general prohibition of hearsay. The most common exceptions include:

Statement against interest and Statement of a party opponent: In child welfare cases, this exception is often relevant when parents admit to neglectful/abusive behavior or living conditions.

State of mind: Hearsay is generally admissible if the question reveals the declarant's state of mind, emotional or physical condition at the time of the statement.

Records made in the regular course of business (business records exception): i.e. service plans