

OBJECTIONS

Your script should attempt to incorporate some of the more routine characteristics of a typical criminal trial, for example, legal objections. An objection is a protest raised by counsel concerning the legal propriety of (i) a question posed by opposing counsel to the witness on the stand; or (ii) the conduct of opposing counsel during his/her examination. The following is a list of some of the most common objections heard during criminal trials in Canada.

- a. **Badgering the witness** - refusing to allow the witness to respond or behaving rudely toward the witness
- b. **Calls for an opinion/conclusion** - question asks the witness for his/her opinion or conclusion, as opposed to his/her knowledge or information of material issues before the court - only qualified expert witnesses may provide their professional opinions or draw conclusions while on the stand
- c. **Compound question** - two or more questions asked simultaneously by counsel
- d. **Hearsay** - out-of-court statement uttered by someone other than the witness on the stand and presented by the witness in order to support the truth of the statement asserted; hearsay is generally inadmissible at trial; in general, witnesses may not testify about something they were told by another, with several exceptions (e.g., criminal confessions, dying declarations, excited utterances, official business documents, statements against interest, etc.)
- e. **Irrelevant/Immaterial question** - the question posed by counsel does not possess any probative value, meaning the question does not relate to any material issue before the court; the judge may request an "offer of proof" demanding counsel explain the relevance of the question; even where relevance exists, counsel's question may be disallowed if the prejudicial effect (unfairness) of a witness's response outweighs the response's probative value
- f. **Lack of competence** - the witness does not possess the necessary expertise or training to properly respond to the question posed by counsel; in other words, the witness is not a qualified expert in the field
- g. **Leading the witness** - counsel conducting direct examination of a witness may not ask leading questions; only counsel conducting cross examination may ask leading questions
- h. **Non-responsive witness** - raised by counsel questioning a witness and objecting to the lack of adequate response, from the witness; the judge may direct the witness to answer the question
- i. **Calls for speculation** - question asks the witness to speculate or estimate (guess) in the absence of certainty
- j. **Vagueness** - question posed by counsel is vague and unclear & therefore difficult to respond to
- k. **Privileged information** - the question calls for the witness to provide privileged or confidential (legally protected) information such as communications between solicitor and client, husband and wife, physician and patient, clergy and penitent, etc.
- l. **Repetition** - questions posed by counsel are repetitive and are simply being used to badger the witness
- m. **Character evidence** - question designed to elicit testimony that impugns/maligns (damages) the general character of another witness or the accused - evidence of poor character of another witness or the accused may only be introduced to rebut suggestion by opposing counsel of good character of that same witness or the accused
- n. **Oath helping/self-serving testimony** - question designed to elicit testimony that merely bolsters (enhances) the credibility of another (oath helping) or oneself (self-serving)
- o. **Lack of foundation** - physical exhibit or witness testimony introduced at trial while uncertainty still exists as to its authenticity, source or relevance

Following counsel's announcement of the objection, the judge will either rule in favour of the objection ("**sustained**") or against the objection ("**overruled**"). A question that the judge has ruled to be improper ("**sustained**") is usually "**withdrawn**" by counsel who posed the question.

p. **Inconsistent Statement**