

Basics of Legal Evidence

“**Evidence**” refers to anything that can be used to prove or disprove a claim being made. However, in the legal arena, it also refers to the rules governing what type of evidence can be considered in court to determine a question of fact.

The law of evidence is designed to ensure that as much relevant evidence as possible is admitted into United States courts. However, it also seeks to evidence that’s unreliable, or is likely to have an emotional influence on a jury that’s disproportionate to its actual value in proving or disproving a relevant fact in the case, it can be excluded by a judge.

There are several thresholds that must be met before a piece of evidence can be introduced into court, and considered by the jury or judge (if the judge is acting as the finder of fact).

The first of these thresholds is **relevance**. A piece of evidence is relevant if it tends to prove or disprove a fact that’s at issue in the lawsuit. Obviously, whether or not a piece of evidence is relevant will depend heavily on the facts that each side is trying to prove.

However, some pieces of evidence, even if they’re relevant, can be excluded because they might unduly **prejudice** the jury. Most often, this issue comes up when a piece of evidence is likely to have a huge emotional impact, causing the jury to give it more weight than it objectively deserves, if you only consider its actual value in proving or disproving a particular fact.

Once a piece of evidence is found to be relevant, and not overly prejudicial, it still has many other hurdles to overcome.

One of the biggest hurdles is **hearsay**. If ANY piece of evidence (whether it’s witness testimony, or a written document) is ruled to be hearsay, it will not be admitted, unless a specific exception to the hearsay rule applies. Hearsay is any statement made out of court, which is offered to prove the truth of the matter asserted in the statement. It is generally considered unreliable, and is therefore inadmissible.

For example, suppose you’re a plaintiff in a lawsuit for personal injuries sustained in a car accident. You want to prove that the other driver was drunk at the time. Suppose you can only find one witness who has any information on this matter, and their information comes from speaking with the bartender who allegedly served alcohol to the defendant before the accident. This testimony would be inadmissible, in most cases. Generally, you would have to find the bartender, and call him or her to testify, since they have direct knowledge of the facts at issue, and anyone they spoke to after the fact (who didn’t witness the defendant drinking) does not.

However, not all statements made out of court are hearsay. For example, suppose there’s a case that involves a disputed will. Let’s say that two brothers are fighting over their father’s substantial estate, and that his will left all of his money to Son A. Son B,

however, believes that their father hated Son A, and would never have included him in his will. So, he wants to prove that the will is a forgery. Suppose that the father said, on more than one occasion, to multiple people, "Son A is a monster! I bet he eats puppies for breakfast!" Anyone who heard the father say this would be able to testify to that fact, and their testimony would be admissible. This is because nobody is trying to prove that any of the father's statements (that one of his sons is a monster, and that he eats puppies) are true. Whether or not they're true is completely irrelevant. What *is* relevant is the father's opinion of his sons, which his statements are certainly relevant to prove. So, the father's statement, in this case, is not hearsay.

However, in some cases, hearsay is admissible. For example, a statement made by one of the parties to a case (a "party admission") is usually admissible, especially if the statement goes against their legal interests. Also, business records are also admissible under an exception to the hearsay rule. And, in criminal cases, "dying declarations" (statements made by a person who reasonably believed that his death was imminent) are admissible. There are many other hearsay exceptions, but they all have one thing in common: they are made under circumstances in which the speaker has a significantly reduced incentive to lie, and are therefore considered more reliable than other statements made out of court.

Another important thing to consider in evidence law is the "**exclusionary rule**." This is only relevant in criminal cases. If evidence is seized in violation of the 4th Amendment's protection against unreasonable search and seizure (usually this means conducting a search without a warrant), it is inadmissible.

There are many other rules that affect the admissibility of evidence. If you are involved in either a civil or criminal case, the rules of evidence are going to come into play. Getting the right piece of evidence admitted or excluded can make or break a case. For that reason, it's absolutely essential that you hire a litigation attorney with a strong grasp of the local rules of evidence.