

**BROWARD COUNTY BAR ASSOCIATION
FAMILY LAW SECTION**

NUTS AND BOLTS

**Proper Introduction of Evidence:
Florida Evidentiary
Trial Objections**

NOVEMBER 6, 2025

*The Honorable Christopher Wigand, 17th Judicial Circuit, Broward County, Florida
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FLORIDA EVIDENTIARY TRIAL OBJECTIONS

AMBIGUOUS Confusing question in that it is capable of being understood in more than one sense. §90.612(1).

ARGUMENTATIVE Counsel's question is really argument, or excessive quibbling with a witness. §90.612(1).

ASKED AND ANSWERED Unfair to allow counsel to emphasize evidence through repetition. Greater leeway permitted on cross-examination. Be especially ready to make this objection during the re-direct. §90.612(1).

ASSUMES A FACT NOT IN EVIDENCE Question assumes a "fact" not testified to but contained in the question. §90.612(1).

AUTHENTICATION LACKING Proof must be offered so that the exhibit is in fact what it is claimed to be. §90.901.

BEST EVIDENCE RULE If rule applies, original document must be offered or its absence accounted for. If contents of document are to be proved, rule usually applies. §90.952.

BEYOND SCOPE (OF DIRECT, CROSS, ETC.) Question unrelated to preceding examination by opposing counsel, or to credibility. §90.612(2).

BOLSTERING Improper to bolster the credibility of a witness before that credibility is attacked. §90.609(2).

COMPOUND More than one question contained in counsel's question; answer could be misunderstood. §90.612(1).

CONCLUSION Except for an expert, witness must testify to facts within personal knowledge; conclusions are for counsel during closing argument. §90.604.

CONFUSING Unfamiliar words, disjointed phrases; or confuses facts or evidence. §90.612(1).

COUNSEL TESTIFYING Opposing counsel is making a statement instead of asking a question. §90.605.

CUMULATIVE Judge has discretion to control repetitive evidence. Repeated presentation of the same evidence by exhibits or by additional witnesses. §§ 90.403 & 90.612(1).

FOUNDATION LACKING Failure to lay proper predicate for testimony or exhibit **Note:** This objection may be "too general" to preserve the objection for appeal, so if overruled, be more specific as to what the foundation lacks. §90.604; §90.901.

HEARSAY (question) The answer would elicit hearsay, and no exception has been shown. §90.802.

HEARSAY (answer) Question did not call for hearsay, but witness gave it anyway. Consider motion to strike. §90.802.

IMPROPER CHARACTER EVIDENCE Evidence of character and methods of proof are limited §§90.404-405; 90.608-611.

IMPROPER CHARACTERIZATION The question or response has characterized a person or conduct with unwarranted suggestive, argumentative, or impertinent language. §90.404-405; §90.612(1).

IMPROPER IMPEACHMENT Methods of impeachment are limited and specific. §90.608.

IMPROPER QUESTION Use only when you *know* the question is improper but cannot think of the specific basis for the objection. This is better than failing to make *any* objection, as the judge may know it is an improper question and sustain, but it cannot be relied upon to preserve the objection for appeal. §90.612.

INCOMPETENT WITNESS - Lack of qualification such as oath or mental capacity. Counsel should be specific as to the incompetency. §90.603; §90.607.

IRRELEVANT Would not tend to prove or disprove a material fact. Consider motion to strike. §90.401.

LEADING Form of question tends to suggest answer. §90.612(3).

MISQUOTING WITNESS (or MISSTATING EVIDENCE) Counsel's question misstates prior testimony of witness. Similar to objection based on assuming fact not in evidence. §90.104(2).

NARRATIVE Question is so broad or covers such a large time period it would allow a witness to ramble and possibly present hearsay or other inadmissible evidence before a specific objection could be made. Judge has broad discretion in this matter. §90.104(2); §90.612(1).

OPINION Expert witness has not been qualified as such, or the testimony of a lay person would be an opinion which is beyond the scope permitted by the rules. §90.604; §90.701-702.

PREJUDICE OUTWEIGHS PROBATIVE VALUE Object, ask to approach bench, and then argue that "the probative value of the evidence is substantially outweighed by the danger of unfair prejudice." Applies to exhibits and/or testimony. §90.403.

PRIVILEGED Answer would violate valid privilege §90.502-506.

SPECULATION Calls for conjecture; allows witness who lack personal knowledge to guess. §90.604; §90.701.

UNRESPONSIVE Answer includes testimony not called for by the question. Especially applicable to voluntary response by hostile witness. **Note:** An objection based *solely* on this ground is generally deemed appropriate only if made by the examining attorney; therefore, opposing counsel should try to find some additional basis for the objection. §90.612(1); §90.104(2).