

**COMMON OBJECTIONS CHART**  
**(excluding Hearsay, covered in next section)**

*This chart was prepared by Children's Law Center as a practice aid for attorneys representing children, parents, family members and others in the neglect system. This chart does not constitute or substitute for legal advice. Attorneys should always do their own independent research and analysis before deciding how or whether to use the information in this chart. A complete list of all evidentiary objections and related supports in D.C. and Federal law is beyond the scope of this chart, which includes common objections and a sampling of related supports in D.C. and Federal law. This chart is intended as a practice aid and is not necessarily comprehensive. Also, please note that the Federal Rules of Evidence (FRE) have not been formally adopted or incorporated by the D.C. Superior Court and the D.C. Court of Appeals, although D.C.'s controlling case law and statutes on evidence largely model the Federal Rules. In addition, many of the cases listed below are criminal cases, and attorneys should conduct their own analysis as to whether they can be applied to the civil context. Cases which apply the rule at issue to proceedings in Family Court have been provided in some cases, if available. Additional resources on the law of evidence include The Law of Evidence in the District of Columbia (5<sup>th</sup> Ed.) by Hon. Steffen W. Graae, Hon. Henry F. Greene, and Brian T. Fitzpatrick (which includes numerous relevant case citations) and Trial Techniques by Thomas A. Mauet.*

Common Objection	Statute/Case/Rule	Notes:
<b>Improper Character Evidence</b>	<p><u>Generally:</u></p> <p><u>Borum v. U.S.</u>, 56 F.2d 301 (D.C. 1932)</p> <p><u>Preston v. U.S.</u>, 80 F.2d 702 (D.C. Cir. 1935)</p> <p><u>Morris v. D.C.</u>, 124 F.2d 284 (D.C. Cir. 1941)</p> <p><u>Other crimes, wrongs, acts:</u></p> <p><u>Johnson v. U.S.</u>, 610 A.2d 729 (D.C. 1992)</p> <p><u>Drew v. U.S.</u>, 331 F.2d 85 (D.C. Cir. 1964)</p> <p><u>U.S. v. Carter</u>, 482 F.2d 738 (D.C. Cir. 1973)</p> <p>See also FRE 404(a), (b)</p>	<p><u>Character evidence generally.</u> Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except: (1) character of accused; (2) character of victim; and (3) character of witness. [See also <b>Impeachment</b>, below]</p> <p><u>Note:</u> The scope of admissible material may be broader in Family Court proceedings. [See, e.g., <u>In re S.K.</u>, 564 A.2d 1382 (D.C. 1989)]</p> <p><u>Other crimes, wrongs, or acts.</u> Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. [<u>U.S. v. Carter</u>; see also FRE 404(b)] Evidence of other crimes is admissible where relevant to: (1) motive, (2) intent, (3) the absence of mistake or accident, (4) a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of the one tends to establish the other, and (5) the identity of the person charged with the commission of the crime on trial. [<u>Drew v. U.S.</u>]</p> <p><u>Sex crimes:</u> Evidence of a defendant's past sexual misconduct with persons other than persons involved in the sexual misconduct for which he is being tried is admissible to show an unusual sexual preference for similar acts. [<u>Johnson v. U.S.</u>]</p>
<b>Cumulative Evidence</b>	<p><u>Yeager v. Greene</u>, 502 A.2d 980 (D.C. 1985)</p> <p><u>Henderson v. George Wash. Univ.</u>, 449 F.3d 127 (D.C. Cir. 2006)</p> <p>See also FRE 403, 611</p>	<p>The court has discretion to control repetitive evidence introduced during trial.</p>
<b>Assumes Facts Not in Evidence</b>	<p><u>Simmons v. U.S.</u>, 940 A.2d 1014 (D.C. 2008)</p>	<p>It is improper for an attorney to make an argument to the jury based on facts not in evidence or not reasonably inferable from the evidence.</p>

<p><b>Lack of Foundation (including Authentication)</b></p>	<p>Super. Ct. Civ. R. 43-I, 44</p> <p><u>Campbell v. Willis</u>, 290 F. 271 (D.C. 1923)</p> <p><u>Anderson v. D.C.</u>, 48 A.2d 710 (D.C. 1946)</p> <p><u>Giles v. D.C.</u>, 548 A.2d 48 (D.C. 1988)</p> <p><u>Taylor v. U.S.</u>, 759 A.2d 604 (D.C. 2000)</p> <p>See also FRE 901-902, 1000-1004</p>	<p>All exhibits and testimony must have necessary foundations established before they can be admitted in evidence. [See also <b>Relevance</b> below]</p> <p>Lay and expert opinion testimony must have a proper factual basis on which the opinion is based. [See also <b>Improper Opinions</b> below]</p> <p>Writings and conversations must be authenticated or identified to be admissible at trial. [<u>Campbell v. Willis</u>]</p> <p>D.C. has a list of self-authenticating documents. [<u>Giles v. D.C.</u>]</p> <p>Courts must make a thorough foundational inquiry before admitting demonstrative evidence to ensure its reliability. [<u>Taylor v. U.S.</u>]</p> <p><u>Note:</u> The “Best Evidence Rule” has largely been abrogated by changes in the law, including the court rules, and can only be raised if there is a dispute about authenticity or accuracy. A duplicate is admissible to the same extent as the original unless: (1) there is a question of authenticity of the original or (2) it would be unfair to admit the duplicate. The original is not required if: (1) the originals are lost or destroyed, (2) the original is not obtainable, or (3) the writing, recording, or photograph is not closely related to a controlling issue.</p>
<p><b>Hearsay</b></p>		<p><b>See Hearsay, covered in separate chart</b></p>
<p><b>Improper Impeachment</b></p>	<p>D.C. Code §§14-102, -305</p> <p>See also FRE 607, 608, 609, 613</p>	<p>The credibility of a witness may be attacked by any party, including the party calling the witness. [D.C. Code §14-102(a)]</p> <p>Basis for impeachment</p> <ol style="list-style-type: none"> <li>1. bias, interest, and motive [D.C. Code § 14-102(b)]</li> <li>2. prior convictions [D.C. Code § 14-305, <u>Ross v. U.S.</u>, 520 A.2d 1064 (D.C. 1987); see also FRE 609]</li> <li>3. prior bad acts [<u>Lee v. U.S.</u>, 454 A.2d 770 (D.C. 1982); see also FRE 608(b)]</li> <li>4. prior inconsistent statements [D.C. Code § 14-102(b)]</li> <li>5. contradictory facts [<u>Cooper v. Safeway Stores</u>, 629 A.2d 31 (D.C. 1993)]</li> <li>6. bad reputation for truth and veracity [<u>Bassil v. U.S.</u>, 517 A.2d 714 (D.C. 1986); see also FRE 608(a)]</li> </ol>

<p><b>Improper Opinion (including experts)</b></p>	<p><u>Motorola Inc., v. Murray</u>, 147 A.3d 751 (D.C. 2016)</p> <p><u>Daubert v. Merrell Dow Pharmaceuticals</u>, 509 U.S. 579 (1993)</p> <p><u>In re Melton</u>, 597 A.2d 892 (D.C. 1991)</p> <p><u>In re L.L.</u>, 653 A.2d 873 (D.C. 1995)</p> <p><u>In re Ca.S.</u>, 828 A.2d 184 (D.C. 2003)</p> <p><u>Jones v. U.S.</u>, 990 A.2d 970 (D.C. 2010)</p> <p><u>Gardner v. U.S.</u>, 999 A.2d 55 (D.C. 2010)</p> <p><u>In re A.B.</u>, 999 A.2d 36 (D.C. 2010)</p> <p><u>U.S. v. Williams</u>, 212 F.3d 1305 (D.C. Cir. 2000)</p> <p>See also FRE 701-702</p>	<p>In November of 2015, the DC Court of Appeals heard oral argument en banc in <u>Motorola Inc. v. Murray</u>. This marked the first time the DC Court of Appeals has re-considered its use of the <u>Dyas/Frye</u> test. The court considered whether to abandon the <u>Dyas/Frye</u> test in favor of adopting standards for admissibility of expert evidence codified in FRE 702. As a focal point of the opinion, the court discussed the standard for admissibility of expert witness testimony as set forth in <u>Daubert v. Merrell Dow Pharmaceuticals</u>, 509 U.S. 579 (1993), and mirrored in FRE 702. The court examined the vast application and use of the <u>Daubert</u> standard in other jurisdictions, clarity, and simplicity as reasons for adopting FRE 702 as the standard for assessing admissibility of expert testimony.</p> <p><u>Expert opinions</u>. Criteria for admitting expert testimony pursuant to FRE 702</p> <table border="1" data-bbox="848 467 1940 618"> <tr> <td> <ol style="list-style-type: none"> <li>1. The expert's scientific, technical or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;</li> <li>2. The testimony is based on sufficient facts or data;</li> <li>3. The testimony is the product of reliable principles and methods; and</li> <li>4. The expert has reliably applied the principles and methods to the facts of the case.</li> </ol> </td> </tr> </table> <p><u>Note</u>: Statements relied on by experts may be admissible (even if hearsay) but only to show basis of experts' opinion (not for the truth of the matter asserted). [<u>In re Ca.S.</u>; <u>Gardner v. U.S.</u>]</p> <p><u>Note</u>: Experts are permitted to rely on the opinion of another expert in formulating their opinion when such reliance is reasonable in the experts' particular field. [<u>In re A.B.</u>]</p> <p><u>Note</u>: A witness may be qualified as an expert even in the absence of academic training as expertise may be predicated on experience. However, there must be a fit between the experience and the testimony. The witness should be able to explain how that experience leads to the conclusion reached, as well as why the experience is a sufficient basis for the opinion and how the experience is reliably applied to the facts. [<u>Jones v. U.S.</u>]</p> <p><u>Lay witnesses</u> can give opinions/inferences only where the opinion is based on the witness' perception of an event and is helpful to the jury in understanding the facts. Trial judges are given broad discretion in admitting testimony of lay witnesses. [<u>U.S. v. Williams</u>]</p> <p>To distinguish between lay and expert testimony, a court must look at the reasoning process by which the witness reached his proffered opinion. [<u>King v. U.S.</u>, 74 A.3d 678 (D.C. 2013)]</p>	<ol style="list-style-type: none"> <li>1. The expert's scientific, technical or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;</li> <li>2. The testimony is based on sufficient facts or data;</li> <li>3. The testimony is the product of reliable principles and methods; and</li> <li>4. The expert has reliably applied the principles and methods to the facts of the case.</li> </ol>
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<p><b>Parol Evidence Rule</b></p>	<p><u>Fistere, Inc. v. Helz</u>, 226 A.2d 578 (D.C. 1967)</p>	<p>The Parol Evidence Rule bars admission of extrinsic oral evidence that modifies/contradicts a contract. Exceptions include: mistakes, incompleteness, ambiguities, and other uncertainties on the contract.</p>	

<p><b>Lack of Personal Knowledge (Competency)</b></p>	<p>D.C. Code §§ 14-301, -306</p> <p>See also FRE 601-606</p>	<p>Competency depends upon the witness' capacity to observe, remember, narrate, and understand the duty to tell the truth. [See generally FRE 601] Every person is competent to be a witness except if there is a statutory disqualification:</p> <ul style="list-style-type: none"> <li>• Lack of personal knowledge</li> <li>• Uncorroborated testimony against deceased/incapable person</li> <li>• Judge/jury as witness [See also FRE 605-606]</li> </ul> <p>Competency questions not governed by statute are left to the court's discretion [See generally FRE 601]:</p> <ul style="list-style-type: none"> <li>• Age: [Johnson v. U.S., 364 A.2d 1198 (D.C. 1976), Barnes v. U.S., 600 A.2d 821 (D.C. 1991), Galindo v. U.S., 630 A.2d 202 (D.C. 1993); Beausoleil v. U.S., 107 F.2d 292 (D.C. Cir. 1939)]</li> <li>• Intoxication: [Fowel v. Continental Ins. Co., 55 A.2d 205 (D.C. 1947)]</li> <li>• Unsound Mind: [Mitchell v. U.S., 609 A.2d 1099 (D.C. 1992)]</li> <li>• Intellectual Disability: [U.S. v. Benn, 476 F.2d 1127 (D.C. Cir. 1972) (stating that it is in the trial judge's sound discretion whether to order a psychiatric evaluation for a witness)]</li> <li>• Drug Addiction: [U.S. v. Kearney, 420 F.2d 170 (D.C. Cir. 1969)]</li> </ul>
<p><b>Prejudice Outweighs Probativeness</b></p>	<p><u>Henderson v. George Wash. Univ.</u>, 449 F.3d 127 (D.C. Cir. 2006)</p> <p>See also FRE 403</p>	<p>A trial court may prevent the introduction of evidence "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." In considering a trial judge's application of Rule 403, the Supreme Court has stated the standard of review as "abuse of discretion." [<u>Henderson v. George Wash. Univ.</u>]</p>
<p><b>Privileged Communication</b></p>	<p>D.C. Code §§ 14-300, -306, -307, 22-4124</p> <p><u>In re N.H.</u>, 569 A.2d 1179 (D.C. 1990)</p> <p><u>In re O.L.</u>, 584 A.2d 1230 (D.C. 1990)</p> <p><u>In re N.P.</u>, 882 A.2d 241 (D.C. 2005)</p> <p>See also FRE 501</p>	<p>Communications made in confidence between parties having certain relationships are barred from disclosure upon objection.</p> <ul style="list-style-type: none"> <li>• husband-wife [D.C. Code §§14-306, 22-4124. But see D.C. Code §§ 4-1321.05, 16-2359 (waiving the privilege under certain circumstances)]</li> <li>• physician-patient [D.C. Code §14-307. But see D.C. Code §§ 4-1321.05, 16-2359 (waiving the privilege under certain circumstances)]</li> <li>• attorney-client [common law privilege not governed by D.C. statute]</li> <li>• clergy-penitent [D.C. Code §14-300]</li> </ul> <p>But see <u>In re M.L.</u>, 28 A.3d 520 (D.C. 2011) (Results of court-ordered mental health evaluations are not protected by doctor-patient privilege)</p>

<b>Lack of Relevance</b>	<p><u>Silverfarb v. U.S.</u>, 40 A.2d 82 (D.C. 1944)</p> <p><u>Reavis v. U.S.</u>, 395 A.2d 75 (D.C. 1978)</p> <p><u>In re L.C.</u>, 92 A.3d 290 (D.C. 2014)</p> <p>See also FRE 401-403</p>	<p>One fact is relevant to another when the existence of the one, taken alone or in connection with other facts, renders the existence of the other more certain or more probable. [<u>Silverfarb v. U.S.</u>]</p> <p>First, the evidence must relate logically to the fact it is offered to prove. Second, the fact sought to be established by the evidence must be material. Finally, the evidence must be adequately probative of the fact it tends to establish. It must tend to make the existence or nonexistence of a fact more or less probable than would be the case without that evidence. [<u>Reavis v. U.S.</u>]</p> <p><u>Note</u>: The scope of relevant material may be broader in Family Court proceedings. See, e.g., <u>In re M.D.</u>, 758 A.2d 27 (D.C. 2000), <u>In re J.A.</u>, 601 A.2d 69 (D.C. 1991) (a determination of best interests places a responsibility on the judge to know as much as possible about the situation).</p>
<b>Common Objections Related to the Form of the Question</b>		
<b>Argumentative</b>	See generally FRE 403, 611(a)	This is a question that is essentially an argument to the jury. The question elicits no new information. It states a conclusion and asks the witness to agree.
<b>Beyond the Scope of Direct Examination</b>  <b>Beyond the Scope of Cross Examination</b>	<p>Super. Ct. Civ. R. 43(b)</p> <p><u>Arnstein v. U.S.</u>, 296 F. 946 (D.C. 1924)</p> <p>See also FRE 611</p>	Cross-examination must be limited “only upon the subject matter of the examination in chief” and matters affecting the credibility of the witness. [Super. Ct. Civ. R. 43(b)] Redirect must similarly be limited to the subject matter of the cross-examination that came before it.
<b>Compound Question</b>	See generally FRE 403, 611(a)	This is a question that brings up two separate facts within a single question.
<b>Confusing, Misleading, Ambiguous, Vague, Unintelligible</b>	See generally FRE 403, 611(a)	A question must be posed in a reasonably clear and specific manner so that the witness can reasonably know what information the examiner is eliciting.
<b>Leading Question</b>	<p>Super. Ct. Civ. R. 43(b)</p> <p><u>Green v. U.S.</u>, 348 F.2d 340 (D.C. Cir. 1965)</p> <p>See also FRE 611</p>	A leading question suggests the desired answer to the witness. Generally improper during direct examination, unless the witness is considered hostile or adverse. [Super. Ct. Civ. R. 43(b)] Leading questions on direct may be proper if necessary to develop the witness’ testimony.
<b>Misstates Evidence or Misquotes Witness</b>	See generally FRE 403, 611(a)	This is a question that misstates and distorts evidence or misquotes a witness.
<b>Speculative Question</b>	See generally FRE 403, 611(a)	Any question that asks the witness to speculate or guess is improper. Witnesses are permitted to give estimates and approximations [e.g. distance, time, speed, and age].

<b>Asked and Answered</b>	<p><u>Yeager v. Greene</u>, 502 A.2d 980 (D.C. 1985)</p> <p><u>Henderson v. George Wash. Univ.</u>, 449 F.3d 127 (D.C. Cir. 2006)</p> <p>See also FRE 403, 611</p>	Questions and answers previously elicited and made by the same party should not be repeated to avoid needless consumption of time.
<b>Common Objections Related to the Form of the Answer</b>		
<b>Conclusions</b>	<p><u>Deloach v. U.S.</u>, 307 F.2d 653 (D.C. 1962)</p> <p>See also FRE 701</p>	A conclusion is a deduction drawn from a fact or series of facts. Witnesses should testify only to facts.
<b>Narrative Answer</b>	<p><u>Yeager v. Greene</u>, 502 A.2d 980 (D.C. 1985)</p> <p>See also FRE 611</p>	A long narrative answer is objectionable because it does not give opposing counsel a reasonable opportunity to make a timely objection.
<b>Unresponsive Muttered Statements by Witnesses and other Extrinsic Evidence</b>	<p><u>Garrett v. U.S.</u>, 20 A.3d 745 (D.C. 2011)</p>	Extrinsic evidence, such as muttered comments by a witness, is not necessarily properly included for jury determination. The judge should inquire at least a limited amount into the jury's perception of the utterance and any potential exposure to extrinsic evidence.
<b>Unresponsive, Volunteered</b>	<p>See generally FRE 403, 611(a)</p>	An answer that does not directly respond to a question is objectionable. Portions of an answer that go beyond what is necessary to answer the question are objectionable.
<b>Other</b>		
<b>Failure to Object</b>	<p><u>Eldridge v. U.S.</u>, 492 A.2d 879 (D.C. 1985)</p> <p><u>Rose v. U.S.</u>, 629 A.2d 526 (D.C. 1993)</p> <p><u>In re S.C.M.</u>, 653 A.2d 398 (D.C. 1995)</p> <p><u>In re N.P.</u>, 882 A.2d 241 (D.C. 2005)</p>	Once evidence is admitted without objection, it may be properly considered by the trier of fact and given its full probative value, and reversal will not be obtained absent plain error.