

# CEB Checklist of Objections

Objections listed below are covered in detail in California Trial Objections (Cal CEB) by Edwin A. Heafey, Jr., Stephen G. Blitch, Jayne E. Fleming, and Marshall C. Wallace.

## Objections to Competence to Testify

<b>Cannot be understood</b>	Evid C §701(a)(1). See chap 18.
<b>Does not understand duty to tell truth</b>	Evid C §701(a)(2). See chap 18.
<b>No personal knowledge</b>	Evid C §702. See Evid C §800; chap 18.
<b>Juror cannot give subjective evidence impeaching verdict</b>	Evid C §1150. See chap 18.
<b>Juror at this trial</b>	Evid C §704(b). See chap 18.
<b>Judge at this trial</b>	Evid C §703. See chap 18.

## Objections to Form of Questions

<b>Ambiguous or unintelligible</b>	See Evid C §765(a); chap 7.
<b>Argumentative</b>	See Evid C §765(a); chap 14.
<b>Assumes fact not in dispute or not in evidence</b>	See Evid C §§210, 765(a); chap 15.
<b>Calls for narrative answer</b>	See Evid C §765(a); chap 10.
<b>Calls for speculation</b>	See Evid C §§702, 800 (matter not in witness's personal knowledge), 801 (question calls for improper opinion); chap 16.
<b>Compound</b>	See Evid C §765(a); chap 8.
<b>Has been asked and answered</b>	See Evid C §765(a); chap 11.
<b>Leading</b>	See Evid C §767; chap 13.
<b>Misquotes a witness</b>	See Evid C §765(a); chap 12.
<b>Too general</b>	See Evid C §765(a); chap 9.

## Objections Concerning Experts

<b>Improper hypothetical question</b>	See <i>Guardianship of Jacobson</i> (1947) 30 C2d 312, 324, 182 P2d 537; chap 20.	<b>Subject matter not beyond experience of ordinary witness</b>	Evid C §801(a). See chap 20.
<b>Information will not help trier of fact</b>	Evid C §801(a). See chap 20.	<b>Use of new scientific technique that does not satisfy Kelly test</b>	<i>People v Leahy</i> (1994) 8 C4th 587, 34 CR2d 663. See chap 20.
<b>Insufficient foundation to qualify as expert</b>	Evid C §§720, 801. See chap 20.	<b>Witness is basing opinion on material that may not reasonably be relied on</b>	Evid C §801(b). See chap 20.
<b>Should give basis of opinion before stating opinion</b>	Evid C §802. See chap 20.		

## Objections to Offered Evidence

<b>Communications made "for the purpose of, in the course of, or pursuant to" a mediation</b>	Evid C §1119. See chap 32.	<b>Improper impeachment</b>	Evid C §§352, 780, 785, 789, 1101-1103. See chap 22.
<b>Cross-examination exceeds scope of direct examination</b>	Evid C §§761, 773. See chap 26.	<b>Improper rehabilitation</b>	Evid C §§780, 785, 789-791. See chap 23.
<b>Cumulative evidence</b>	Evid C §352. See chap 31.	<b>Inadmissible opinion of lay witness</b>	Evid C §§800, 802-803. See chap 20.
<b>Evidence of subsequent repairs or subsequent remedial conduct</b>	Evid C §1151. See chap 32.	<b>Inadmissible parol evidence</b>	CCP §1856. See chap 25.
<b>Evidence that party has liability insurance</b>	Evid C §1155. See chap 32.	<b>Insufficient foundation</b>	Evid C §403 or §405. See chap 21.
<b>Hearsay</b>	Evid C §1200. See chap 19.	<b>Irrelevant evidence</b>	Evid C §§210, 350-351. See chap 17.
<b>Illegally obtained evidence</b>	US Const amends IV, XIV; Cal Const art I, §13 (objection normally must be made before trial); chap 28.	<b>Party's offer to compromise, or admissions made during compromise negotiations</b>	Evid C §1152. See chap 32.
<b>Improper evidence of prior sexual conduct in rape case</b>	Evid C §782. See chap 22.	<b>Writing not (properly) authenticated</b>	Evid C §1401. See chap 21.

## Objections to Misconduct

<b>Misconduct of counsel:</b>	
• <b>Object to specific acts as misconduct and ask for curative admonition</b>	Cite specific grounds and authority, e.g., failure to provide required discovery (Pen C §1054.5(b) (criminal); CCP §2023.010(d) (civil)). See chap 29.
• <b>Move for mistrial on ground that effect of misconduct is so prejudicial that fair trial is now impossible</b>	See <i>People v McLain</i> (1988) 46 C3d 97, 112, 249 CR 630; chap 29.
<b>Misconduct of judge:</b>	
• <b>Object to judge's misconduct, describe it, object as error, and</b>	ABA Model Code of Judicial Cond Canon 3(A); <i>People v Perkins</i> (2003) 109 CA4th 1562, 1566, 1 CR3d 271. See chap 29.
• <b>Move for mistrial on ground that effect of misconduct is so prejudicial that fair trial is now impossible</b>	See <i>People v Woods</i> (1950) 35 C2d 504, 512, 218 P2d 981; chap 29.
<b>Misconduct of juror (before verdict rendered):</b>	
• <b>Object to specific acts as misconduct</b>	See, e.g., <i>People v Pierce</i> (1979) 24 C3d 199, 155 CR 657; chap 29.
• <b>Move for mistrial on ground that effect of misconduct is so prejudicial that fair trial is now impossible</b>	See <i>People v Daniels</i> (1991) 52 C3d 815, 864, 277 CR 122; chap 29.
• <b>Request that jury be instructed to disregard misconduct</b>	See <i>People v Harper</i> (1986) 186 CA3d 1420, 231 CR 414; chap 29.

## Objections Because of Privilege

<b>Against self-incrimination</b>	US Const amends V, XIV; Cal Const art I, §15; Evid C §§404, 940. See chap 46.
<b>Attorney-client</b>	Evid C §§916, 950-962. See chap 34.
<b>Cleric-penitent</b>	Evid C §§1030-1034. See chaps 50-51.
<b>Confidential marital communications</b>	Evid C §§916, 980-987 (when no witness or party can claim privilege). See chap 40.
<b>Domestic violence counselor-victim</b>	Evid C §§1037-1037.8. See chap 39.
<b>Sexual assault counselor-victim</b>	Evid C §§916, 1035-1036.2. See chap 38.
<b>Defendant in criminal case not to be called as witness and not to testify</b>	US Const amends V, XIV; Cal Const art I, §15; Evid C §930. See chap 47.
<b>Identity of informer</b>	Evid C §§1041-1042 (usually pretrial motion). See chap 44.
<b>Journalist's immunity from contempt</b>	Evid C §§1070; Cal Const art I, §2(a)-(b). See chap 48.
<b>Not to be called as witness against spouse</b>	Evid C §§970-973. See chap 42.
<b>Not to testify against spouse</b>	Evid C §§970-973. See chap 41.
<b>Official information</b>	Evid C §§1040-1047. See chap 43.
<b>Physician-patient</b>	Evid C §§916, 990-1007. See chap 36.
<b>Psychotherapist-patient</b>	Evid C §§916, 1010-1027. See chap 37.
<b>Trade secrets</b>	Evid C §§916, 1060. See also CCP §2019.210. See chap 45.
<b>Voter</b>	Evid C §1050. See chap 49.
<b>Work product</b>	CCP §2018.030; Pen C §1054.6. See chap 35.

## Motions to Strike

<b>Answer contains inadmissible portions (specify what they are)</b>	<i>People v Glass</i> (1954) 127 CA2d 751, 274 P2d 430. See chap 52.	<b>Insufficient opportunity to object to question before witness answered, and question is objectionable on ground (specify)</b>	<i>Wysock v Borchers Bros.</i> (1951) 104 CA2d 571, 581, 232 P2d 531. See chap 52.
<b>Answer was nonresponsive to question</b>	Evid C §766. See chap 52.	<b>No foundation has been proved</b>	Evid C §§403, 405. See chap 52.
<b>Evidence has been shown to be inadmissible</b>	<i>People ex rel Dep't of Pub. Wks. v Dunn</i> (1956) 46 C2d 639, 297 P2d 964. See chap 52.	<b>Witness unavailable for cross-examination</b>	See <i>People v Reynolds</i> (1984) 152 CA3d 42, 199 CR 379; chap 52.