



Object and Respond with Authority

2,000 Recent Cases

Ideally suited to the demands of trial and last-minute trial preparation, *Illinois Objections* provides a time-saving alternative to lengthy treatises. Its concise but well-supported text puts the rules and cases at your fingertips. And its practical orientation guides you through the realities of evidentiary battles.

Covers All Important Objections

Illinois Objections is more than an evidence book. In addition to evidentiary objections, you'll find objections to jury selection, opening statement, closing argument, jury charges, judicial conduct and more. Coverage of all significant trial objections—from jury selection through closing argument gives *Illinois Objections* vastly greater practical value than an evidence-only book.

Delivers More than Objections

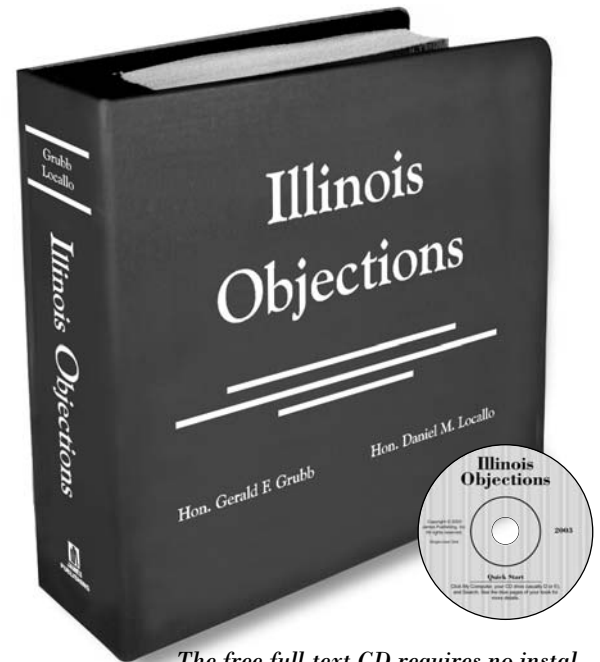
The scope and breadth of *Illinois Objections* far exceeds the mechanics and arguments of making and meeting objections. Rules, definitions, distinctions, scope, weight, advice from the bench, examples, and procedures are provided for key evidentiary issues. Principles are extensively supported with case authority, and the underlying scholarship will impress you.

From pretrial proceedings through expert testimony to summation, the practical coverage in this new trial practice book will quickly earn its inexpensive keep.

Most evidentiary rulings are within the judge's discretion, and are made in seconds. Bad rulings are almost never reversible. As a result, victory usually goes to the lawyer who can prevail on the big objections in the heat of battle.

The key to winning evidentiary debates is objecting and responding with arguments and supporting authority at your fingertips. That is where Judges Daniel M. Locallo and Gerald F. Grubb's *Illinois Objections* comes in.

It uses a courtroom-friendly format to cover over 130 objections with clear and concise explanations, trial-tested tips, persuasive arguments, and supporting cases.



The free full-text CD requires no installation before use, and may be searched by key words, case names, or topics
Book and CD cost \$99.

Designed for Eve-of-Trial and Courtroom Use

When time is short, *Illinois Objections* delivers quickly with:

- ☞ Pattern objection language
- ☞ How to respond when faced with the objection
- ☞ Comments on how the rules apply
- ☞ Practice tips and cautions with detailed advice from the bench
- ☞ Arguments and strategies to support your objection
- ☞ Tactics and arguments to counter your opponent's objection
- ☞ Relevant case cites, with a synopsis of each case

Sample pages and table of contents inside...

Organized for Quick Access

11-11	Science, Opinions & Experts	§11:100
<p>cross-examining the expert or by examining the party's own expert. <i>Darling v. Charleston Memorial Hospital</i>, 33 Ill App 3d 326, 211 NE2d 253 (1965).</p> <p>Furthermore, after an expert expresses an opinion, the fact that the expert has given a contrary opinion in another case is a preclusion on impeachment on cross-examination. <i>People v. Charleston</i>, 132 Ill App 3d 769, 477 NE2d 762 (1985) (expert properly confronted with fact that he had made an error in calculating blood alcohol content in previous unrelated case).</p>		
PRACTICE TIPS		
<p>Review an expert's past testimony and published work. In preparing cross-examination of an expert witness, always examine an expert witness' published works and review transcripts of previous testimony the expert has given in other cases for inconsistencies. Note books and treatises the expert has recognized as authoritative, and determine whether they square with the testimony the expert is giving in the present case.</p> <p>Cross-examining the opponent's expert. Ask your opponent's expert the following questions:</p> <ul style="list-style-type: none">• Was the information he relied upon to give his opinion provided to him by opposing counsel? (Suggest that the opinion is not independently reached, or is biased.)• What percentage of his income is derived from offering expert testimony?• On what basis is he being paid (an hourly rate, a daily rate, a fee contingency)? <p>It is also acceptable to cross-examine an expert witness regarding the following:</p> <ul style="list-style-type: none">• How often he or she has testified in the past. <i>Trower v. Jones</i>, 121 Ill 2d 211, 520 NE2d 297 (1988).• The party for whom past testimony was given. <i>Trower v. Jones</i>, 121 Ill 2d 211, 520 NE2d 297 (1988).• The amount of remuneration the expert has or will receive for assisting in preparation of the case, for reviewing necessary materials to arrive at an opinion, and for testifying in court and at depositions. <i>Snelson v. Kamm</i>, 319 Ill App 3d 116, 745 NE2d 128 (2001); <i>Pruett v. Norjick &</i>		
II. OBJECTIONS		
§11:100 Lack of Qualifications		
OBJECTION, YOUR HONOR, THIS WITNESS IS NOT QUALIFIED TO TESTIFY AS AN EXPERT ON THIS TOPIC.		
COMMENTS		
<p>The trial judge has broad discretion to decide whether an expert witness is qualified to testify based on knowledge, skill, education and experience. <i>People v. Hanley</i>, 313 Ill App 3d 16, 728 NE2d 1183 (2001).</p> <p>Judges generally qualify experts whose experience or training bears a reasonable relation to the area of purported expertise. The degree and measure of knowledge required is directly related to the complexity of the subject matter and the corresponding likelihood of error by one insufficiently familiar with the subject matter. <i>People v. Jackson</i>, 321 Ill App 3d 498, 747 NE2d 1001 (2001) (police detective was qualified to offer opinion of bullet's direction of travel based on manner in which bullet made hole in wall).</p> <p>... of expertise. <i>People v. Hanley</i>, 313 Ill App 3d 16, 728 NE2d 1183 (2001) (without showing more qualifications to offer such opinion a police officer was not allowed to explain in detail why fingerprints are difficult to obtain from plastic surfaces, but he would have been allowed to explain that he did not check for prints because surface had been handled by others and contamination may have occurred).</p>		
PRACTICE TIP		
<p>Do not stipulate to your expert's qualifications. If your expert is obviously qualified, or</p>		

Pattern Objections

Model language for over 130 objections. Big headings and logical organization take you to the right objection in seconds.

Comments

The application, scope, and purpose of the governing rules in straightforward language.

Practice Tips

Elevate your advocacy with the cautions, strategies, and advice from the bench offered here.

Objection Tactics

Use these arguments to fight admission of the opposition's evidence, or to minimize its impact. Included are alternative strategies and what you need to put on the record.

Responsive Arguments

Never let an unforeseen objection catch you flat-footed again. Anticipate, preclude, and meet objections with the authors' expert strategies for counter-attack.

11-13	Science, Opinions & Experts	§11:100
<p>and biology, was actively working on a master's degree in biology and a thesis on DNA extraction methods, had taken several genetics courses, had attended seminars and classes on DNA methods at FBI and private labs, had been certified by the American Board of Criminalistics, and had been subject to periodic testing on DNA issues.</p> <p><i>Schiff v. Fritberg</i>, 331 Ill App 3d 643, 771 NE2d 517 (2002). A board-certified gynecologist was qualified to testify as to the standard of care in a medical malpractice case in which the defendant physician was board-certified in gynecology, reproductive endocrinology and fertility.</p> <p><i>Kotvan v. Kirk</i>, 321 Ill App 3d 733, 747 NE2d 1045 (2001). In a medical malpractice case, a board-certified ophthalmologist was qualified to testify as to the plaintiff's infectious endophthalmitis even though he had treated only three such cases. The witness was board certified in ophthalmology and a professor of ophthalmology and was trained to recognize the symptoms of infectious endophthalmitis as an advanced cataract surgeon.</p> <p><i>People v. Jackson</i>, 321 Ill App 3d 498, 747 NE2d 1001 (2001). A police detective was qualified to offer an opinion of a bullet's direction of travel based on the manner in which it caused a hole in a piece of wood furniture.</p> <p><i>People v. Clifton</i>, 321 Ill App 3d 707, 750 NE2d 686 (2006). A police officer was a qualified expert on street gangs by reason of his experience alone. For 18 years, he had been assigned to a gang unit whose main function was to monitor and obtain information on street gangs, including the defendant's gang and its victims. The officer was also assigned to federal authorities for investigation of the defendant's street gang.</p> <p><i>Vin Hatten v. Kmart Corp.</i>, 308 Ill App 3d 121, 719 NE2d 212 (1999). In a negligence action against a pharmacy for misfilling a patient's prescription, a physician was qualified to render an expert opinion on the standard of care that required the pharmacist to dispense the exact drug in the exact dosage written on the prescription.</p> <p><i>People v. Oliver</i>, 306 Ill App 3d 59, 713 NE2d 727 (1999). A witness who was qualified as an expert in genetic analysis was properly qualified to testify as an expert in the field of population genetics. The witness had taken a course in population genetics, although not at a university.</p>		
<p><i>Wingo by Wingo v. Rockford Memorial Hospital</i>, 292 Ill App 3d 896, 686 NE2d 722 (1997). A physician was qualified to render an opinion on the standard of nursing care in a case in which a staff nurse was alleged to have negligently communicated an obstetrical patient's condition to the treating physician.</p> <p><i>People v. Strader</i>, 278 Ill App 3d 876, 663 NE2d 511 (1996). In a second-degree murder trial, the trial court erred in refusing to allow a licensed psychologist to render an opinion as to whether the defendant was acting under a sudden and intense passion at the time of the occurrence.</p> <p><i>People v. Smith</i>, 261 Ill App 3d 117, 633 NE2d 69 (1994). A crime scene processor was qualified to describe the characteristics of blood markings found in a car and categorize them as high velocity or low velocity markings, but he was not qualified to reconstruct the shooting or express an opinion as to where the shooting took place.</p> <p><i>People v. Bynum</i>, 257 Ill App 3d 133, 630 NE2d 234 (1994). A lab technician was qualified to testify as an expert regarding the composition of drugs seized from the defendant, even though she relied on computer-generated and stored "substance profile" graphs used by the testing device.</p> <p><i>People v. Foules</i>, 258 Ill App 3d 645, 630 NE2d 895 (1993). Based on 11 years of experience working as an undercover agent, a police officer was qualified as an expert in the use of narcotics and the behavior of narcotics users and dealers.</p> <p><i>People v. Eisdani</i>, 253 Ill App 3d 773, 625 NE2d 1018 (1993). A licensed social worker with 11 years' experience in counseling victims of sexual abuse, attending workshops, and giving presentations on topics related to sexual abuse may testify on rape trauma syndrome.</p> <p><i>People v. Smith</i>, 253 Ill App 3d 443, 624 NE2d 836 (1993). An arson investigator with years of experience and training was qualified to testify on matters of physics, chemistry and investigation technique, even though some of the testimony was not beyond the ken of average jurors.</p> <p><i>People v. Sims</i>, 247 Ill App 3d 670, 617 NE2d 411 (1993). A witness was qualified to testify regarding distance and travel of shell casing ejections from the point of bullets. The witness had a degree in forensic science and on-the-job training and had attended courses and classes on firearms.</p>		

§11:100	Illinois Objections	11-12
<p>has a particularly impressive background, your opponent may offer to stipulate to the expert's qualifications. Politely reject the offer, since questioning the witness concerning his or her qualifications in front of the jury enhances the witness's credibility, though, of course, the court can limit "grandstanding." Offering your expert's resume or curriculum vitae can shorten the testimony and enhance the appearance of modesty.</p>		
FOUNDATION		
<p>The proponent of an expert should establish some of these foundational bases:</p> <ul style="list-style-type: none">• Educational background.• Licenses and certifications.• Experience in relevant field.• Teaching experience.• Membership or offices held in professional organizations.• Books and articles written.• Awards won.		
MAKING THE OBJECTION		
<ul style="list-style-type: none">• If you can mount a sustainable challenge to the testimony, then sit down and accept the testimony.• If an opposing expert is a professional witness or has testified frequently and on diverse subjects, effective cross-examination can make the witness seem like a "hired gun."• Establish that the witness is being paid for testimony or "time in court."• If the expert advertises his or her services in legal journals, bring that out.• Check the expert's prior testimony or writings to prepare to cross-examine and impeach if there is		
<p>a discrepancy between the testimony and opinions offered by the expert in the past. Bring transcripts of any relevant testimony from the current or prior trials to challenge any inconsistencies in the witness' answers.</p>		
RESPONDING TO THE OBJECTION		
<ul style="list-style-type: none">• Since courts generally allow experts to testify, respond to a challenge to your expert's qualifications by asserting that the quality or quantity of the witness's credentials go to weight and not admissibility of evidence.• If the judge is reluctant to allow your expert to testify, suggest that the court issue a limiting instruction that the jury is free to accept or reject the witness' opinion.• If opposing counsel failed to object to your expert immediately after you called the expert as a witness, argue that opposing counsel waived the objection.• Use judgment in asking for or agreeing to a stipulation concerning qualifications.• A stipulation will prevent you from questioning the witness concerning his or her qualifications, which may enhance your witness's credibility. (Much time spent on detailing your witness' initials can be tedious and may come across as "showing off.")• If your expert witness has appeared as an expert in many trials, and opposing counsel characterizes the expert as a "hired gun," make it clear that the expert's services have been sought by many people because of the expert's excellent credentials.		
CASES		
<p>Expert opinion admissible</p> <p><i>People v. Mulero</i>, 176 Ill 2d 444, 680 NE2d 1329 (1997). A clinical psychologist is qualified to render an expert opinion on a person's fitness to plead guilty, stand trial, be sentenced, or be executed, even though a psychologist is not a psychiatrist or a medical doctor.</p> <p><i>People v. Miller</i>, 173 Ill 2d 167, 670 NE2d 721 (1996). The witness was qualified to render an opinion in a Frye hearing on the issue of the general acceptance and reliability of DNA evidence. The witness had a bachelor's degree in chemistry.</p>		

Case Law

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About the Authors

Daniel M. Locallo is a Circuit Court Judge of Cook County assigned to the Law Division since 1999. He presides over jury trials at the Daley Center in Chicago and has had over 100 civil jury trials. Previously he was assigned to the Criminal Division within the Felony Trial Division at the Criminal Courts Building, where he presided over more than 100 criminal jury trials from 1992 until 1998. He was appointed an Associate Judge in 1986 and elected a Circuit Judge in 1992.

Judge Locallo is former Chair of the Criminal Law Section Council of the Illinois State Bar Association. He has taught in seminars for continuing education for judges within the Circuit Court of Cook County and State of Illinois on both civil and criminal matters, and has co-authored manuals on both complex criminal and civil litigation. He graduated from John Marshall Law School in 1977.

Gerald F. Grubb is Chief Judge for the 17th Judicial Circuit (Winnebago and Boone Counties). He was appointed Assistant City Attorney for Belvedere in 1975 and Assistant State's Attorney for Boone County in 1976, elected State's Attorney for Boone County in 1980, appointed Associate Judge for the 17th Judicial Circuit in 1987, and elected Circuit Judge for the 17th Judicial Circuit in 1996.

Judge Grubb has presided over major civil and criminal trials for 16 years, including cases in products liability, Structural Work Act, wrongful death, medical malpractice, toxic torts, zoning, injunction, business torts, personal injury, reckless homicide, drug trafficking, attempted murder, murder, and capital murder. He prosecuted major felony cases for seven years. He is a 1975 graduate of John Marshall Law School.

About the Book & CD

Illinois Objections contains 22 tabbed dividers and 450 letter-sized pages in a sturdy looseleaf binder. Over 130 objections are supported with practice tips from the bench, pattern objection language, arguments to use when objecting and responding, and 2,000 recent cases. Underlying principles and rules are explained, with citations to governing authority.

Included at no extra charge is an intuitive, full-text CD which requires no installation before use. It may be searched by key word, case name, or topic.

\$99 buys the book and CD. The book is updated annually for \$69 with replacement pages and a new CD. Both the book and its updates are sold on a 30-day trial basis, and may be returned if not to your liking. The update service may be cancelled at any time.

Abbreviated Contents

1. Procedures

Presentation and Admissibility, Procedure, Motions in Limine, Offers of Proof, Motions to Strike, Curative and Limiting Instructions, Motions for Mistrial

2. Jury Selection

Governing Law, Participants, Procedure, Examining the Panel, Challenges, Arguing the Case, Legal Matters, Repetitiveness, Indoctrinating Jury, Discriminatory Use of Peremptory Challenges

3. Opening Statement

Arguing Case, Erroneous Matter, Personal Attacks, Injection of Self, Inflammatory Statements, Failure to Set Forth Claim, Financial or Personal Circumstances, Insurance Coverage, Settlement Negotiations, Repairs

4. Relevance & Materiality

Discretion, Balancing, Limited Purposes

5. Confusing, Prejudicial & Bolstering

Ambiguous, Compound, Prejudicial, Self-Serving, Bolstering

6. Hearsay

Hearsay, Hearsay within Hearsay, Former Testimony, Declarations Against Interest, Dying Declaration, Pedigree, Prior Inconsistent Statements, Past Recollection Recorded, Admissions, Business Records, Public Documents, State of Mind, Excited Utterance

7. Privileges

Self-Incrimination, Attorney Work Product, Physician-Patient, Husband-Wife, Clergyman, Reporter, Therapist, Social Worker, Accountant, Rape Crisis Counselor, Counselor of Victim of Violent Crime, Interpreter, Voter, Testifying While Proceedings Are Broadcast, Unemployment Records, Insurance Compliance Self-Evaluation Audit, Environmental Audit, Medical Studies Act Attorney-Client, State Secrets, Informant

8. Witness Competence

Absence of Oath, Lack of Personal Knowledge, Immaturity, Mental Incompetency, Intoxication, Dead-Man's Act

9. Witness Examination

Leading Questions, Narrative, Argumentative, Beyond Scope of Direct Testimony, Prior Criminal Convictions, Asked and Answered, Assuming Facts Not In Evidence, Unresponsive, Conclusion or Opinion Sought, Opinion as to Another's State of Mind

10. Character & Habit

Character, Habit

11. Science, Opinion & Experts

Lack of Qualifications, Lack of Adequate Basis, Opinion Based on Hearsay, Ultimate Issue, Inappropriate Hypothetical Question, Scientific Testimony, Identification Evidence

12. Documents

Best Evidence Rule, Public Documents and Records

13. Photographs, Recordings & X-Rays

Photograph, Videotape or Motion Picture, Sound Recording, X-Ray and Other Medical Diagnostic Imaging Tests

14. Real Evidence

Chain of Custody, Exhibition of Person to Show Injury or Body Condition, Viewing Premises or Scene of Accident

15. Demonstrative Evidence

Charts, Diagrams, Graphs, Maps, Models, Demonstrations, Simulations, Re-creations, Experiments

16. Parol Evidence

17. Discovery Material

Depositions: Testimony Excluded by Rule of Evidence, Deposition Taken Over Objection of Inadequate Notice, Officer Disqualified, Transcript Not Properly Authenticated, Testimony Not of Officer, Witness Is Not Unavailable, Deposition Not Inconsistent with Trial Testimony and Cannot Be Used to Impeach, Witness Not Given Opportunity to Deny or Explain, Witness' Memory Not Exhausted
Other Discovery Methods:
Interrogatory Answer to Which Timely Objection Made Cannot Be Used at Trial, Evidence Is Contrary to Admitted Facts, Medical Examiner's Testimony Should Be Excluded

18. Judicial Notice, Presumptions, Admissions

Judicial Notice, Presumptions, Admissions, Evidentiary Sanctions, Stipulations, Res Judicata & Collateral Estoppel, Judicial Estoppel

19. Attorney Conduct

Arguing Objections in the Jury's Presence, Failure to Comply with Ruling or Order, Improper Comment, Presenting Material Not in Evidence, Concealing or Destroying Evidence, Improper Representation

20. Judicial Conduct

Conducting Jury Selection, Court Comments, Embarrassing Counsel, Examining Witness

21. Closing Argument

Matters Not in Evidence, Demonstrative Materials Not in Evidence, Commenting on Failure to Testify, Injecting Self or Personal Belief, Vouching for Witness Credibility, Reading or Arguing Law
Personal Attacks, Racial or Political or Religious Comments, Wealth or Poverty or Self-Interest, Collateral Sources, Settlement, Specific Damage Award, Unit of Time as Measure of Damages (Per Diem Argument)

22. Submission to Jury

Jury Instructions, Jury Questions and Read-Back Requests

Objections, responses, arguments, tips, and cases

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Making and Meeting Objections



Don't let opposing counsel's objections block the admission of your critical evidence. And don't be caught unprepared when opposing counsel offers evidence you could obstruct—if you made the proper objection.

Whether you are in the courtroom or preparing for trial, **Illinois Objections** will help you use the rules of evidence to your client's advantage.

Judges Daniel M. Locallo and Gerald F. Grubb masterfully detail **over 130 objections** with pattern objection language, scope of governing rules, practice tips and cautions, arguments for making and responding to objections, and **over 2,000 recent cases**. Now you can more readily:

-  Preclude trial objections through motions in limine
-  Evaluate the admissibility of the opposition's evidence
-  Preserve the record for appeal
-  Decide when to object and when to remain silent
-  Respond to objections on the spot and with authority
-  Draft briefs on evidentiary objections and motions
-  Prevent jury exposure to adverse inadmissible evidence

Sample pages and table of contents inside...