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The license may not give you all of the permissions necessary for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you use the material. This page was last substantively updated or reviewed June 2021. (Rev. # 96782) Real evidence consists of all tangible evidence, physical objects such as, tape recordings, computer printouts or photographs. It is evidence where “the trier of fact uses its own senses to make observations and draw conclusion, rather than being told about the object by a witness.”[1] It is evidence that “conveys a relevant first-hand sense impression to the trier of fact.”[2] Real evidence, as with all other evidence, must first be relevant. Secondly, it must be authentic. Not all physical objects are “real evidence”, however. A photo line-up is not real evidence, rather it is “an aid to identification.”[3] There are two theoretical approaches to admitting photographs and videos that have been applied in courts. There is the “silent witness” theory where the images speak for themselves after they have been authenticated. There is the “illustrative theory” whereby the images are simply supplemental to the oral testimony of a witness.[4] Burden The burden of authenticating real evidence rests on the party seeking to tender the evidence.[5] Authentication The standard proof for the authentication of real evidence should be “prima facie case of authentication” or “some evidence”, there is no need to prove a fact on a standard of balance of probability or reasonable doubt.[6] To be authentic the common law requires that there must be “evidence sufficient to support a finding that the evidence sought to be admitted is what it purports to be.”[7] Real evidence may be authenticated using circumstantial evidence.[8] For example, a video may be authenticated by any witness who can provide evidence that the “video in question is a substantially accurate and fair depiction of what it purports to depict.”[9] Role of Judge A judge is regularly permitted to examine pieces of real evidence. By doing so, does not turn them into a “witness.”[10] There is no obligation on the judge to provide notice to the parties to examine a piece of real evidence adduced into evidence, [11] Appeal The standard for the admission of evidence is a question of law and reviewable on a standard of correctness.[12] The question of the evidence meeting the standard is reviewable as mixed fact and law and reviewable on a standard of palpable and overriding error.[13] 1 R v Letavine, 2011 ONCJ 444 (CanLII), per Dechert J, at para 157 See also Watt, Manual of Criminal Evidence as s. 10.01 1 Letavine, supra, at para 157 Watt at s. 10.01 1 R v Swift, 2005 CanLII 34230 (ON CA), 33 CR (6th) 269, per MacPherson JA, at para 152 1 R v Penney, 2000 CanLII 28396 (NLSCDT), 582 APR 286, per Schwartz J, at paras 22 to 29 1 R v Punia, 2016 ONSC 2990 (CanLII), per Corozo J, at para 28 1 R v Rowbotham, 1977 CanLII 1913 (ON CJ), 33 CCC (2d) 411 (Ont. Co. Ct), per Borins J - authentication of a audio recording required “prima facie case” R v Sandham, 2009 CanLII 59151 (ON SC), per Heeney J. - authentication of an email R v Parsons et al, 1977 CanLII 55 (ON CA), 37 CCC (2d) 497, per Dubin JA - authentication of a audio recording requires “some evidence” R v Andalib-Goorant, 2014 ONSC 4690 (CanLII), 13 CR (7th) 128, per Trotter J - affirms “some evidence” standard 1 R v Avanes et al, 2015 ONCJ 606 (CanLII), 25 CR (7th) 26, per Band J 1 R v Bulldog, 2015 ABCA 251 (CanLII), 326 CCC (3d) 385, per curiam, at para 35 1 Bulldog, ibid., at para 37 1 R v Meer, 2015 ABCA 1 (CanLII), per curiam (2:1), at para 88 1 Meer, ibid., at para 88 1 Bulldog, ibid., at para 17 R v Underwood, 2008 ABCA 263 (CanLII), 174 CR (2d) 211, per curiam, at para 10 1 Bulldog, supra, at para 17 R v Redford, 2014 ABCA 336 (CanLII), 319 CCC (3d) 170, per Paperny JA (2:1), at para 12 Procedure There is no fixed formula for submitting real evidence, however, it is recommended that a procedure for submitting evidence be followed such as:[1] call a witness with personal knowledge of the object; ask the witness to describe the object before showing it to the witness; allow the witness to examine and identify it as genuine; and ask that the object be entered as an exhibit, with the appropriate stamp applied by the clerk. As a matter of practice, the party adding copies of evidence, there should be two copies given to the court. One is for the witness and the other for the judge to review.[2] It has been suggested that there is no need to introduce the real evidence in every case.[3] 1 “Evidence: Principles and Problems” by Delisle, et al, p. 299 1 R v Crocker, 2015 CanLII 1001 (NL PC), per Gorman J, at para 40 1 R v Donald, 1958 CanLII 470 (NB CA), 121 CCC 304, 28 CR 206 (NBCA), per Bridges JA see also R v Penney, 2000 CanLII 28396 (NLSCDT), 582 APR 286, per Schwartz J, at para 45 Demonstrative Evidence see Demonstrative Evidence Physical Objects Handwriting and signatures The trier-of-fact may make comparisons of handwriting without the need of expert evidence it is analogous to comparison of video evidence.[1] Fingerprints Fingerprint evidence is relevant to establish that a print left in a location was from a particular person, most likely the accused, which tends to inculpate the accused. This needs to be established by expert evidence.[1] A number of facts may be determined from fingerprints:[2] whether the accused touched the object whether anyone else may have touched the object the manner of touch or grip the persons had on the object including the orientation of the hand(s), the recency of the touching based on the cleanliness of the object, the weather, and moisture Most often all that will be gleaned from the fingerprint is that the object was touched by the accused. It will take other circumstantial evidence to establish that the accused touched the object at the relevant time and place.[3] This evidence can also be used to infer personal possession within the meaning of s. 4(3). When such an inference can be drawn will depend on the circumstances of the case and all the evidence. Such determination is a question of fact.[4] 1 See Expert Evidence for details. 1 See discussion in R v DDT, 2009 ONCA 918 (CanLII), 257 OAC 256, per Epstein JA 1 R v Mars, 2006 CanLII 3460 (ON CA), 205 CCC (3d) 376, per Doherty JA, at para 19 DDT - Acquittal entered after conviction for break and enter based solely on fingerprint evidence. It was found on reasonable to infer access left fingerprint during break in. 1 R v Lepage, 1995 CanLII 123 (SCC), [1995] 1 SCR 654, per Sopinka J (3:2) Computer Forensic Evidence See also: Electronic Documents and Records any data found on a computer that was generated by an automated process is considered real evidence.[1] 1 R v Mondor, 2014 ONCJ 135 (CanLII), per Greene J, at para 17 (“...Information that is gathered and recorded electronically by an automated process, either with or without human intervention, can be introduced as real evidence...”) Photographs, Videos and Audio See Also OBJECT (REAL) EVIDENCE UNDER RULE 130 OF THE RULES OF COURT Object (or real) evidence is governed by Rule 130 of the Revised Rules on Evidence in the Philippines. This category of evidence includes material objects presented in court to establish facts through their physical existence or characteristics. Below is a meticulous discussion of the essential concepts, rules, and principles governing object evidence under Philippine law. I. DEFINITION OF OBJECT EVIDENCE Object evidence refers to tangible items presented for inspection or examination by the court to prove a fact in issue. It is distinguished from documentary and testimonial evidence in that its value lies in its physical properties rather than its narrative or written content. II. REQUISITES FOR ADMISSIBILITY OF OBJECT EVIDENCE To be admissible in court, object evidence must satisfy the following requisites: Relevance - The object must have a direct relation to the fact in issue. Authenticity - The proponent must establish that the object is what it is claimed to be. Competence - The evidence must not be excluded by law or rules, such as by the rule on privileged communication or other exclusionary principles. III. PROCEDURE FOR INTRODUCING OBJECT EVIDENCE The introduction of object evidence involves three steps: Marking - The object is marked for identification purposes. Offer - The evidence is formally offered during trial for a specific purpose. Authentication - The proponent must prove that the object has not been tampered with and remains in substantially the same condition as when the relevant event occurred. IV. AUTHENTICATION AND CHAIN OF CUSTODY Authentication of object evidence is critical, especially in criminal cases. This is particularly true for objects prone to tampering, such as drugs, firearms, or blood samples. The proponent must establish a chain of custody to prove that the object presented in court is the same as that seized or collected. Chain of Custody Requirements: Proper identification and marking of the item at the time it is obtained. Documentation of each person who had custody or control of the item. Continuous accounting of the item's location from seizure to presentation in court. Clear evidence that the object has not been tampered with or altered. V. EXAMPLES OF OBJECT EVIDENCE Weapons - Guns, knives, or other instruments used in the commission of a crime. Drugs - Dangerous drugs seized in buy-bust operations. Documents with physical characteristics - Burned, torn, or blood-stained papers. Clothing - Articles of clothing showing damage or stains relevant to the case. Vehicles or Other Physical Property - Items involved in accidents or theft. VI. RULES OF RELEVANCE AND WEIGHT Relevance: The court must determine whether the object logically tends to prove or disprove a material fact. Irrelevant objects are inadmissible. Weight: Even if admissible, the object's probative value is evaluated by the court based on its reliability, condition, and connection to the fact in issue. VII. SPECIAL RULES ON OBJECT EVIDENCE Demonstrative Evidence: Objects used to illustrate or clarify witness testimony (e.g., diagrams, models, or maps). Must accurately represent the subject matter. Examination of Evidence by the Court: Rule 130, Section 3 allows the court to inspect the object evidence during trial or deliberations. Experiments and Tests: Courts may allow experiments on the object to determine its properties, subject to proper safeguards. VIII. CHALLENGES TO OBJECT EVIDENCE object evidence may be challenged on the following grounds: Improper Authentication: Failure to establish the identity or integrity of the object. Tampering or Substitution: Evidence that the item was altered, damaged, or replaced. Lack of Relevance: No logical connection to the case or the issue at hand. Improper Offer or Use: Misuse of object evidence to mislead or prejudice the court. IX. CASE LAW AND JURISPRUDENCE Key Supreme Court rulings have clarified the principles surrounding object evidence: People v. Uy (G.R. No. 132810, 2000): The Supreme Court emphasized the necessity of establishing an unbroken chain of custody to preserve the integrity of seized drugs. People v. Ramos (G.R. No. 233744, 2019): The Court invalidated the admission of firearms when the prosecution failed to prove that the weapon presented was the same as that seized from the accused. People v. Pagaduan (G.R. No. 228078, 2021): Highlighted the importance of photographing and inventorying seized evidence in drug cases as part of the chain of custody. X. LEGAL ETHICS IN HANDLING OBJECT EVIDENCE Legal practitioners handling object evidence must observe ethical principles: Integrity: Avoid tampering with or falsifying evidence. Candor: Fully disclose the condition of the object when offering it in court. Diligence: Ensure that the chain of custody is properly documented and maintained. XI. SUMMARY Object evidence is a powerful form of proof that relies on the physical properties of tangible items. Its admissibility hinges on relevance, authenticity, and competence. Philippine jurisprudence has developed safeguards such as the chain of custody to ensure its integrity, particularly in sensitive cases like those involving illegal drugs. Proper handling, authentication, and presentation of object evidence can significantly impact the outcome of legal proceedings. Disclaimer: This content is not legal advice and may involve AI assistance. Information may be inaccurate. The Best Evidence RuleProving a case to a court or jury often requires using written, recorded or photographic evidence. These types of evidence include pictures of property damage, voice message recordings and contracts. When payment, but has a receipt and wants to testify as to what the receipt shows, the Best Evidence Rule will apply since it's the content of the receipt that is being offered. The “best evidence” of what its receipt shows is the receipt itself and the original receipt (or a photocopy) should be entered into evidence. The distinction shown in these examples is tricky to identify. Other common examples of matters often proven through evidence other than the original writing, recording or photograph include a person's birth, a person's age, a marital status or a person's death. Even though each of these facts can be shown through written evidence, such as a birth certificate, marriage license or death certificate, they are also events or facts that can easily be established by testimony. Over time, the rule evolved to reflect the practical limitations placed on obtaining and producing an original piece of evidence for a hearing to trial. Today, most information is stored electronically so the original of an electronically stored piece of evidence includes any printout of that information.[4] If a litigant wishes to submit a series of emails in court, he could print out the email chain and use the printout as an original for purposes of satisfying the rule. In addition to originals and printouts of electronically stored information, duplicates of written, recorded or photographic evidence are admissible in court. Parties frequently submit photocopies or scanned copies of documents during litigation without running into issues with the rule. This is allowed UNLESS a genuine question is raised about the authenticity of the original, or the circumstances make it unfair to admit the duplicates and the duplicate is challenged by an opposing party.[5] For example, a plaintiff may submit a copy of a lease agreement in a landlord-tenant dispute. But if the opposing party claims that the duplicate version of the agreement that the plaintiff has provided is fraudulent (and this claim is judged to have some basis or merit), the Best Evidence Rule requires that the plaintiff produce the original lease agreement.Exceptions to the Best Evidence RuleExceptions to the Best Evidence Rule exist. The original writing, recording or photographic evidence is not required when:1) All the originals are lost or destroyed and not by the party offering the evidence acting in bad faith;2) The original cannot be obtained by any available judicial process;3) The party who the original document would be offered against had control of the original; was put on notice that the original would be a subject of proof at the trial or hearing, and failed to produce it; or 4) The writing, recording or photograph is not closely related to a controlling issue in the case.[6]Once a party shows that one of these four exceptions is applicable, the content of the writing, recording or photographic evidence can be shown through secondary evidence. The following example will apply the first exception. A spouse in a divorce proceeding wants to prove the contents of a drafted letter that she read on a laptop that was written by the other spouse. Even though she wants to prove these contents, the laptop was destroyed when the house was damaged in a flood. Since the spouse offering the letter was not at fault in destroying the laptop, and the original letter could not be obtained because it only existed on the laptop, the Best Evidence Rule DOES NOT prevent the spouse from offering other evidence, such as her testimony, to prove what the letter said. Another exception is that the court can, at its discretion, refuse to apply the rule when there would be “no meaningful purpose to producing the original.” The Federal Rules of Evidence contain three further rules that are not necessarily exceptions to the rule, but provide clarification on non-applicability of the rule to some categories of evidence. Public RecordsA party does not need to introduce an original public record into evidence because removing the original of a public record is simply not practical and could be an inconvenience. Public records can be proven with a copy of an official record, or of a document that was recorded or filed in a public office, when: 1) The record or document is otherwise admissible; and 2) The copy is certified as correct; or a party who has compared the copy to the original testifies that the copy is correct.[7]Large or Voluminous WritingsLarge or voluminous writings, recordings or photographic evidence are also treated differently because reviewing the originals would be inconvenient to the court. For this type of evidence, the party offering it may provide a summary, chart or calculation to prove its content. The party offering the summary, chart or calculation must make the original or a duplicate available for examination. [8] Thus, a party may provide a summary of a large book to the court, while providing notice that the original book is available for examination. Testimony of Another PartyFinally, a party may use the testimony, deposition or written statement of an opposing party to prove the content of a separate writing, recording or piece of photograph evidence when that evidence is being offered against that party.[9] For example, if a plaintiff states in a deposition that he took a photograph prior to an accident showing damage to his vehicle, the opposing party can use the contents from that deposition against the plaintiff to prove that the photograph showed pre-existing damage. Electronically Stored InformationElectronically stored information is an interesting case study in this rule. One court was faced with the question of whether to admit text messages exchanged between the plaintiff and defendant.[10] The text messages had been forwarded in separate emails directly from a cellphone to the defendant's attorney and each email contained one text message. The phone did not have screen shot capabilities or any other method of capturing an image of the messages. Accompanying each email seeking to be introduced into evidence was a declaration from the defendant stating, under penalty of perjury, that the emails accurately reflected the text messages from the cellphone. The defendant also offered details about the text messages, including who sent them. The cellphone had since been replaced and was no longer available. The court determined that the printed-out emails of the text messages were acceptable for purposes of satisfying the Best Evidence Rule. The text messages were forwarded directly from the cellphone and the emails were the only available record of the messages. Also, the defendant vouched for the authenticity of the messages.[11] Each of these factors indicated that the emails were the best possible evidence of the text messages.On the other hand, when a party attempts to submit a reproduction of electronically stored information using unreliable methods, courts will likely exclude the evidence under the Best Evidence Rule. For example, a court was presented with a cut-and-paste of chat room conversations that were taken from an instant messaging box and pasted onto a Microsoft Word document.[12] The party testified that after each instant message conversation on a computer, he highlighted the entire conversation and copied in onto the Word document. There was no original printout or other record of the chat room conversations. When presented with this evidence, the court decided that the cut-and-paste conversations could not be admitted because the method of cutting and pasting were unreliable. The court reached this conclusion because the party admitted that errors could creep into his words or letters were not highlighted correctly and the document itself contained these types of errors. The document had also been edited and did not accurately represent the conversations.[13]An important lesson here is that the Best Evidence Rule is focused on ensuring that evidence provided in court is accurate. When the party offering the evidence cannot even establish its accuracy, a court will exclude it.Compliance with the Best Evidence Rule may appear to burden parties. However, the rule is flexible enough to accommodate the many situations that make obtaining original evidence impractical. Thus, when a party can show that the original is not available or impractical to procure, the Rule is flexible enough to allow other types of evidence as proof of what the writing, recording or photographic evidence shows. Footnotes:[1] Fed. R. of Evid. 1002. [2] Dale Nance, The Best Evidence Principle, 73 Iowa L. Rev. 227, (1988). [3] Fed. R. of Evid. 1003. [4] Fed. R. of Evid. 1001. [5] Fed. R. of Evid. 1003. [6] Fed. R. of Evid. 1004. [7] Fed. R. of Evid. 1005. [8] Fed. R. of Evid. 1006. [9] Fed. R. of Evid. 1007. [10] Greco v. Velvet Cactus, Civil Action No.: 13-3514, 6-8 (E.D. La. June 27, 2014). [12] U.S. v. Jackson, 488 F. Supp. 2d 866 (D. Nebraska 2007). Real evidence refers to physical items that can be presented in court to support a claim or argument. Think of it as tangible proof that can help establish the facts of a case. For example, if there is a dispute about whether a crime occurred, real evidence might include the weapon used, fingerprints found at the scene, or even a video recording of the event. These items are crucial because they provide concrete proof that can help the judge or jury make a decision. When real evidence is introduced in court, it must be relevant to the case at hand. This means that it should directly relate to the facts being disputed. For instance, if someone is accused of theft, a security camera recording showing the accused at the scene can serve as real evidence. The more directly the evidence connects to the case, the stronger it is in supporting a claim. Another important aspect of real evidence is its authenticity. The party presenting the evidence must show that it is genuine and has not been tampered with. This is often done through a process called “chain of custody,” which tracks the evidence from the moment it is collected until it is presented in court. If the evidence cannot be proven to be authentic, it may be dismissed or given less weight in the case. Real evidence can also include scientific findings, such as DNA or blood samples. These types of evidence can be incredibly powerful in criminal cases, as they can definitively link a suspect to a crime. For example, if DNA from a crime scene matches that of a suspect, it can serve as strong real evidence of their involvement. In summary, real evidence is about physical items that provide proof in legal cases. It plays a vital role in helping courts determine the truth and make fair decisions based on the facts presented. What are some examples of “real evidence” in legal contracts? Criminal Case: “The knife found at the crime scene served as real evidence linking the suspect to the murder.” Personal Injury Lawsuit: “The photographs of the accident scene were submitted as real evidence to demonstrate the conditions that led to the injury.” Property Dispute: “The original land survey was presented as real evidence to establish the boundaries of the property in question.” Fraud Case: “The forged documents were introduced as real evidence to prove the defendant's intent to deceive.” Divorce Proceedings: “Text messages exchanged between the spouses were used as real evidence to support claims of infidelity.” Theft Case: “The stolen merchandise was recovered and presented as real evidence during the trial.” Assault Case: “The video footage from a nearby security camera served as real evidence in the assault case.” Contract Dispute: “The signed agreement was submitted as real evidence to show the terms both parties had agreed upon.” FAQs about “real evidence” What is real evidence in law? Real evidence refers to physical items that can be presented in court to prove facts in a case. This can include things like weapons, documents, photographs, or any tangible object that can help establish what happened. How is real evidence different from other types of evidence? Real evidence is different because it consists of actual physical objects, while other types of evidence, like witness testimony or documents, rely on what someone says or writes. Real evidence can be seen and touched, making it often more persuasive in court. What are some examples of real evidence? Examples of real evidence include a broken window in a burglary case, a blood-stained shirt in a murder trial, a contract in a dispute over an agreement, or a photograph of a crime scene. Anything that can be physically examined can be considered real evidence. How is real evidence collected for a court case? Real evidence is collected by law enforcement or investigators at the scene of a crime or incident. They follow strict procedures to ensure that the evidence is not tampered with or contaminated, which helps maintain its integrity for court. Why is real evidence important in a trial? Real evidence is important because it can provide concrete proof of what happened. It helps the judge and jury understand the case better and can be crucial in deciding whether someone is guilty or innocent. Can real evidence be challenged in court? Yes, real evidence can be challenged in court. A lawyer may argue that the evidence was collected improperly, that it is not relevant to the case, or that it has been altered in some way. The judge will then decide whether the evidence can be used. Who can present real evidence in court? Real evidence can be presented by both the prosecution and the defense in a trial. Each side can introduce their own real evidence to support their arguments and challenge the other side's claims. What happens to real evidence after a trial? After a trial, real evidence may be kept as part of the court record, returned to its owner, or destroyed, depending on the case and the laws governing evidence. In criminal cases, some evidence may be held for appeals or future investigations. How does real evidence affect the outcome of a case? Real evidence can significantly affect the outcome of a case by providing clear and convincing proof of facts. Strong real evidence can lead to a conviction in criminal cases or a favorable judgment in civil cases, while weak or questionable evidence can weaken a case. An example of a material object in a murder case is the murder weapon. This is a piece of real evidence, which can be introduced in court. Sometimes, it is impossible to produce a material object at trial because it has been destroyed or lost. Photographs, replicas or the oral evidence of someone who has seen the object may be allowed instead. Sometimes, if the material object cannot be shown in court a “view” or an out-of-court inspection can be carried out. PhotographsPhotographs can be introduced as evidence of what they show. For example, in a murder trial, photographs can be introduced as evidence of the position and state of the deceased's body when it was found. A photograph's authenticity must be proven before it can be admitted as evidence. The photographer must prove that they took the photograph, and the person who processed it must make a statement saying that the photograph is untouched.Photographs do not need to be taken by a professional photographer to be admitted as evidence. For example, in a civil case, photographs you have taken from damage done to your car in a road traffic accident will be allowed (as long as you are available to give evidence in court about when and how you took the photographs).Video recordingsIncidents or crimes are often captured and recorded by video cameras or CCTV. These recordings are accepted in court as real evidence. If evidence of a crime is recorded on a street or shop camera, the Gardaí are obliged to seize and keep the recording for a reasonable time, even if they do not intend to use it as part of the prosecution case.In order to use video recordings as evidence, the prosecution must prove that the video recording is authentic or genuine. The prosecution must explain how and why the recording was made and who had the recording after it was made. The defence can object on these grounds, and if they do, it is up to the judge to decide whether to allow the recording as evidence.If the Gardaí decide not to use a recording as evidence at trial, the prosecution or Gardaí must notify the defence that the recording exists. They must also give the defence advance notice if they decide to destroy the recording. Because even though the recording may not be of use to the prosecution, it may help the accused prove they were not at the scene of the crime.While there is a duty on the Gardaí to collect video evidence, they do not have to go to extreme lengths to do so. For example, the Gardaí would not need to collect every piece of video evidence on O'Connell Street in Dublin if there was a theft from a shop on the street.Out-of-court inspectionA view is an out-of-court inspection of a place or an object that can't be brought into court. For example, the judge (and the jury if it is a criminal case) and the people involved in the case can leave the court to inspect a large machine or a motor vehicle that is of importance to the case. A view is admissible as evidence in a criminal case or a civil case. However, in most cases, it is not necessary to leave the court to examine a place or an object as a photograph or a video recording of the place or object will be accepted in court. A person's appearance and behaviourA person's physical appearance and their characteristics can be used as real evidence. For example, in a personal injuries case the injured person can show the judge a scar they got as a result of the incident. Animals can also be produced to assess their temperament.The demeanour of a witness when giving oral evidence is considered real evidence. The judge can take this into account when deciding if this evidence is credible.Forensic evidenceForensic evidence is material or traces of material that have been analysed by a forensic science laboratory. Forensic evidence is collected by members of the Gardaí who are specially trained to do this. They must ensure that samples are not compromised or contaminated when they are collected and stored.Forensic science laboratories closely examine materials such as paint, glass, soil, hair, fibres, firearm residues, fire accelerants and footprint samples. These samples may have been taken from the scene of the crime or may have been found on the victim or the suspect. Forensic evidence has many uses, for instance: The presence of a material in stored may be significant, for example, the presence of firearms residue on a suspect's clothes Samples of materials may be matched, for example, fibres found on the suspect's jumper match the victim's blouse Unique marks may be identified, for example, footprints Forensic evidence tends to prove that a suspect was at the scene of the crime. For example, if a window was broken by a burglar to get into a house, the suspect's clothing will be examined for small glass fragments. The window will also be examined for fibres that may have come from the burglar's clothing. There may also be DNA evidence. When forensic evidence is introduced in court, it is usually explained by an expert – a forensic scientist. The scientist explains what was done with the sample and how it was analysed. The scientist can then explain the laboratory's findings. Share – copy and redistribute the material in any medium or format for any purpose, even commercially. Adapt – remix, transform, and build upon the material for any purpose, even commercially. The licensor cannot revoke these freedoms as long as you follow the license terms. Attribution – You must give appropriate credit , provide a link to the license, and indicate if changes were made . You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use. ShareAlike – If you remix, transform, or build upon the material, you must distribute your contributions under the same license as the original. No additional restrictions – You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits. You do not have to comply with the license for elements of the material in the public domain or where your use is permitted by an applicable exception or limitation . No warranties are given. The license may not give you all of the permissions necessary for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you use the material. What Are the Rules of Evidence? In the complex world of legal proceedings, the rules of evidence play a crucial role in determining the outcome of a case. The federal rules of evidence can be challenging to wrap your mind around, but understanding these rules is fundamental for anyone involved in the legal process. The following article explores the intricacies of evidence rules, their limitations, and how they have evolved over time. By simply understanding several select rules, you can gain deeper insight into the strength of your case. The rules of evidence are an essential part of any legal claim whether it involves a claim of breach of contract or legal malpractice. Understanding how evidence works can help you understand the strength of your legal claim and what could bolster its chance of success. For example: Some evidence is considered admissible, while other evidence is inadmissible in a court of law. Some inadmissible evidence may be admissible in the case of specific exceptions. Some evidence carries greater weight in a lawsuit. Understanding the federal rules of evidence can help you focus on the critical aspects of your legal case. The Federal Rules of Evidence, which took effect on July 1, 1973, are a set of guidelines designed to regulate the admissibility of evidence in court proceedings, both civil and criminal. These rules aim to make the interrogation and presentation of evidence effective for determining the truth, prevent unnecessary expenditure of time, and protect witnesses from harassment or undue embarrassment. The Federal Rules of Evidence apply to actions, cases, and proceedings brought after their enactment, and can also be applied to pending cases where it would not cause injustice. Personal or family history can play a crucial role in establishing matters of personal or family history, such as birth, marriage, divorce, and death. It can also be utilized to verify identity or ownership of property. To testify about personal or family history, a witness must possess personal knowledge of the matter. This rule is subject to 18.703. This provision covers opinion testimony by expert witnesses. Present sense impression is an exception to the hearsay rule, allowing the admission of a statement that describes or explains an event or condition made while or shortly after the declarant witnessed it. This exception is significant in court cases as it provides reliable evidence of an event as it was experienced at the time it occurred. It is a valuable tool for lawyers and judges to use in order to determine the truth of the case. Witness testimony and prior statements are of paramount importance in legal cases, as they can provide evidence that can corroborate or contradict other evidence, establish facts, and aid in assessing the credibility of witnesses. Extrinsic evidence of a prior inconsistent statement by a witness cannot be taken into consideration unless the witness is given the chance to explain or deny it. The opposing party should also be allowed to ask questions on the matter. However, in certain circumstances, justice may require otherwise. A prior inconsistent statement is a statement made by a witness that is not in agreement with a witness's prior statement made by the same witness at a different time or in a different location. Such statements may be employed to cast doubt on the reliability of a witness and may be accepted as substantive evidence provided that certain criteria are fulfilled. These criteria encompass that the statement must be pertinent, material, and reliable. A “diligent search failed” is a certification or testimony attesting to the fact that a thorough search was conducted and the record or entry was not located. This can be utilized as evidence in the form of a certification or testimony that a comprehensive search was conducted and the record or entry was not located. It is important to note that a “diligent search failed” is not a “diligent search failed”. There are 68 federal rules of evidence structured under 11 articles. It would take numerous posts to sufficiently cover all the laws of evidence in detail, but not every evidentiary rule is as crucial for you to understand initially. Some of the more critical rules of evidence can be broken down into the following categories: Circumstantial evidence Demonstrative evidence Documentary evidence Testimonial evidence The hearsay statement exception for admissibility Understanding these three categories of evidence can help you gauge the strength of your case. In trials, there are two main types of evidence: substantive and demonstrative. Demonstrative evidence is not directly relevant, while substantive evidence is. Substantive evidence supports an issue of fact rather than procedural or collateral issues. Substantive evidence helps to prove the necessary elements of a case directly. Some examples of substantive evidence could include: Corporate reports Accounting records Security footage Bank statements While substantive evidence is generally more valuable, sometimes, demonstrative evidence is just as necessary in a case. Not all evidence is weighted equally. Four types of evidence to understand are: Substantive evidence: tangible items Demonstrative evidence: models Documentary evidence: written models Testimonial evidence: verbal statements The evidence you side puts forward in court should support your most powerful arguments. A focused approach that centers on your main assertions is more effective than slinging various sweeping allegations. If your evidence is sufficiently strong, your case may be settled before entering a courtroom – particularly if you have what amounts to prima facie evidence. Substantive evidence consists of real, tangible, physical items that may be used to prove or disprove a case. Real, tangible evidence is directly relevant to your case. The court can examine this evidence and come to a conclusion about a fact without consideration. To be admissible at trial, substantive evidence must be: Material, meaning it tangibly proves a disputed fact Relevant, meaning it has a reasonable likelihood of helping to prove or disprove an issue of fact Competent, meaning it is traditionally accepted as reliable evidence Substantive evidence is generally given more weight than other evidence. As the name implies, demonstrative models offer a demonstration of the evidence. It is used to explain, clarify, and offer a visual representation. Demonstrative evidence is often used to illustrate a witness's testimony. Demonstrative models may include: Charts that depict financial injury Handwriting samples Maps and diagrams of a crime scene Forensic animations Demonstrative evidence should fairly and accurately reflect the witness's testimony and support the facts the party is trying to prove. Demonstrative evidence can help enhance witness testimony. Jurors may better understand the witness's statement when they encounter a corresponding demonstrative model. Documentary evidence takes the form of a recorded document. This written evidence is used to prove or disprove an allegation. Documentary evidence must typically be genuine, relevant, and original to be admissible – counsel often agree to use copies of relevant documents. Documentary evidence may include witnessed and written agreements, recorded events, and communications. Examples of documentary evidence may include: Shareholder agreements Employment contracts Memoranda reports Communications, like emails and letters Resumes Records, including public records, medical records, judicial records, and other official records Courts and juries may weigh documentary evidence more heavily than testimonial evidence offered by witnesses. Testimonial evidence takes the form of verbal statements. These are most often seen as sworn witness testimonies. These testimonies may come from expert witnesses or eyewitnesses to a fact in question. The witness swears under oath and hears their testimony to the court. Testimony may involve the witness's opinion on a matter at issue. However, their opinion is only admissible if it has a proper foundation: The witness's opinion is reasonably based on their perception, and The witness's opinion is helpful in understanding the facts of the case or the witness's testimony. Additionally, a witness's opinion may be admissible if: The witness is classified as an expert witness who has specialized knowledge of the evidence presented at trial Examples of testimonial evidence include: Statements of declarant Out-of-court evidence. Rule 803, is titled Exceptions to the Rule Against Hearsay, and it governs the admissibility of declarations. Hearsay evidence is a statement made out of court that is admitted to prove the truth of the matter asserted. This means that hearsay is: A statement that was spoken or written, like an email, and Spoken or created out of court, “in the real world,” and Admitted or presented to the court, and Proves the truth of the matter asserted, meaning it is presented to prove a fact contained within the statement An example of when a statement is admissible or inadmissible hearsay follows: Alan saw someone commit bank fraud. Later, Alan tells Bob that the person he saw was Cheryl. Bob offers Alan's statement up in court → Inadmissible hearsay. Alan gives the same statement to police in a witness statement that is offered as evidence in court by the prosecution → The witness statement is inadmissible hearsay. Alan swears an oath in court and gives oral testimony that he saw Cheryl commit bank fraud → Admissible, not hearsay. The general rule is that hearsay is not admissible. However, there are more than 20 exceptions to the Hearsay Rule, including: Present sense impression Excited utterance Existing mental, emotional, or physical conditions, which excludes a statement of memory and a statement of intent Statements for purposes of medical diagnosis or treatment An admission against interest Further there are other situations where a statement may appear to be hearsay, but is not, for example, if it is not offered for its truth. As you can see the rules of evidence can be confusing to a non-lawyer. Speaking with an attorney who specializes in evidentiary rules may be advisable. It is important to understand if the evidence you believe is important to your case is admissible. Hearsay exceptions are of great importance as they enable certain out-of-court statements to be accepted as evidence in court, which can be beneficial in cases where the original speaker is not present or cannot be located. Various hearsay exceptions applicable to law enforcement personnel include the public records exception, the business records exception, the present sense impression exception, and the dying declaration exception. Hearsay exceptions can have considerable influence on court cases, as they enable certain out-of-court declarations to be accepted as proof, which can be advantageous in cases where the initial speaker is inaccessible or cannot be found. The Supreme Court rulings are of great importance as they are able to set precedents and establish guidelines for the utilization of evidence in legal proceedings, and their decisions can modify the interpretation of laws or declare them unconstitutional. A qualified witness is one who possesses the requisite mental ability to perceive, remember, and relate the incident they have witnessed. A qualified witness is of great importance in providing reliable and trustworthy testimony in court, and they may possess specialized knowledge or expertise that is pertinent to the case. The criteria for a competent witness include possessing the requisite mental capacity to perceive, remember, and narrate the incident they have observed. Navigating the evidence process can be a complex and daunting task, but with the right approach and understanding of the rules, it can be made more manageable. First, it is crucial to ensure that all evidence is accurately documented and photographed, as this will guarantee its acceptability in court. Second, guaranteeing the secure handling of the evidence is essential to prevent tampering or destruction. This necessitates that the evidence is stored in a secure location, correctly labeled and tracked, and not accessible to unauthorized persons. When assessing the eligibility of electronic evidence, it is imperative to evaluate the veracity of the evidence, the dependability of the source, and the pertinence of the evidence to the case. If you are gathering evidence for use in an upcoming legal claim, speaking with a highly knowledgeable evidence attorney may help improve the outcome of your case. Contact King & Jones's evidence legal team to arrange your consultation and get your questions answered.