



OBJECTIONS QUICK REFERENCE CHART

Category	Authority	NOTES
Authentication – Lack of	C. E. 901	“The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.”
Beyond the scope of cross-examination	C. E. 611(D)	A witness who has been cross-examined is subject to redirect examination as to matters covered on cross-examination and, in the discretion of the court, as to other matters in the case. When the court has allowed a party to bring out new matter on redirect, the other parties shall be provided an opportunity to recross on such matters.
Beyond the scope of rebuttal	C. E. 611(E) C. Cr. P. 774	Argument (“The state's rebuttal shall be confined to answering the argument of the defendant.”)
Competence	C. E. 601 <u>State v. Deutor</u> , 842 So.2d 438, 442 (La. App. 4 Cir. 2003)	“Every person of proper understanding is competent to be a witness except as otherwise provided by legislation.” “Understanding, not age, is the test of whether any person shall be sworn as a witness.”
Confrontation Clause violations	<u>Crawford v. Washington</u> , 541 U.S. 36 (2004) Davis v. Washington, 547 U.S. 813, 822 (2006)	Any testimonial statement where the declarant is unavailable and has not been made available to the accused for cross-examination. Broadly, a testimonial statement is one that objectively considered reflects an intention to “establish or prove past events potentially relevant to later criminal prosecution.”
Criminalist Certificates	15:499-501	Has the state: 1. Filed the notice more than 45 days before trial? 2. Fulfilled the statutory criteria in R. S. 15:499?
Discovery violations	C. Cr. P. 729.5(A)	“[T]he court may order such party to permit the discovery or inspection, grant a continuance, order a mistrial on motion of the defendant, prohibit the party from introducing into evidence the subject matter not disclosed, or enter such other order, other than dismissal, as may be appropriate.”
Expert Opinions – Improper	La. C. E. 701 <i>et seq.</i> <u>State v. Foret</u> , 628 So. 2d 1116 (La., 1993) (adopting <u>Daubert</u>) C. E. 705	Be on guard for: - Expert testimony that does not satisfy the test of <u>Daubert v. Merrell Dow Pharmaceuticals</u>, 509 U.S. 579, 589 (1993) - Attempts to introduce inadmissible evidence through

		C. E. 704; <u>State v. Chauvin</u> , 846 So. 2d 697 (La. 2003)	experts - Expert testimony that introduces into the province of the trier of fact by getting to ultimate issues; - Expert testimony that is overly prejudicial or bolstering
Fifth Amendment Privilege		Fifth Amendment	The court can properly advise a witness of her privilege. <u>Williams v. Garcia</u>, 122 Fed. Appx. 325, 327 (9th Cir. 2005) (approving a trial judge’s advising a witness of his Fifth Amendment right against self-incrimination); <u>United States v. Santiago-Becerril</u>, 130 F.3d 11, 26 (1st Cir. 1997) (same); <u>United States v. Arthur</u>, 949 F.2d 211, 215 (6th Cir. 1991); <u>United States v. Silverstein</u>, 732 F.2d 1338, 1344 (7th Cir. 1984).
Form of the Question	Argumentative	C.E. 611(A)	The court, however, shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to: (1) Make the interrogation and presentation effective for the ascertainment of the truth; (2) Avoid needless consumption of time; and (3) Protect witnesses from harassment or undue embarrassment.
	Non-responsive		
	Compound /Confusing / vague		
	Asked and Answered / Repetitive Cumulative		
	Assumes facts not in evidence		
	Leading	C. E. 611(C)	“Generally, leading questions should not be used on the direct examination of a witness except as may be necessary to develop his testimony and in examining an expert witness on his opinions and inferences. However, when a party calls a hostile witness, a witness who is unable or unwilling to respond to proper questioning, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions. Generally, leading questions should be permitted on cross-examination. However, the court ordinarily shall prohibit counsel for a party from using leading questions when that party or a person identified with him is examined by his counsel, even when the party or a person identified with him has been called as a witness by another party and tendered for cross-examination.”
Foundation		C. E. 402 (relevance) C. E. 602 (personal knowledge) C. E. 901 (authentication) C. E. 801 (hearsay)	A foundation requires: - That the witness be competent to testify about the exhibit; - The exhibit be shown to be relevant; - The exhibit be shown to be admissible against a hearsay objection (reliable); - The exhibit be what it purports to be
Hearsay		C. E. 801 <i>et seq.</i>	““Hearsay” is a statement, other than one made by the declarant while testifying at the present trial or hearing, offered in evidence to prove the truth of the matter asserted.”
Impeachment with extrinsic		C. E. 613	Except as the interests of justice otherwise require, extrinsic evidence of bias, interest, or corruption, prior inconsistent

evidence – no foundation		statements, conviction of crime, or defects of capacity is admissible after the proponent has first fairly directed the witness' attention to the statement, act, or matter alleged, and the witness has been given the opportunity to admit the fact and has failed distinctly to do so.
Impeachment with prior conviction -- improper	C. E. 609.1(F)	“Evidence of juvenile adjudications of delinquency is generally not admissible under this Article.”
Lack of personal knowledge / Speculation	C. E. 602	“A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter.”
Opinion / Calls for a conclusion	C. E. 701	If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are: (1) Rationally based on the perception of the witness; and (2) Helpful to a clear understanding of his testimony or the determination of a fact in issue.
Other bad acts	<u>State v. Prieur</u> , 277 So. 2d 126 (La. 1973) C.E. 404(B)	Requires: 1. Notice of the intention to use 404B, including • Notice of the specific evidence to be offered; • Notice of the 404B exception the state will invoke; 2. Evidentiary hearing, at which: • State must prove by C&C evidence that the accused did the other acts; • Also “that the evidence of other crimes is not merely repetitive and cumulative, is not a subterfuge for depicting the defendant’s bad character or his propensity for bad behavior, and that it serves the actual purposes for which it is offered.” <u>Prieur</u>, 277 So. 2d at 129.
Prejudicial	C.E. 403	Precludes evidence where the probative/evidentiary value of the evidence is “substantially outweighed by the prejudicial effect it may have” on the trier of fact.
Privilege	C. E. 501 <i>et seq.</i>	Spousal communications (504) Spousal witness (505) Attorney-client (506) Doctor/patient (510)
Refreshment of recollection -- improper	C. E. 612	“In a criminal case, any writing, recording, or object may be used by a witness to refresh his memory while testifying. If a witness asserts that his memory is refreshed he must then testify from memory independent of the writing, recording, or object. If while testifying a witness uses a writing, recording, or object to refresh his memory an adverse party is entitled, subject to Paragraph C, to inspect it, to examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.”
Relevance	C.E. 402, 401	401: "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Reputation bolstering – improper	C.E. 608	Character attack or defense on a witness is by reputation of truthfulness or untruthfulness only, on a foundational showing that the witness is familiar with the reputation.
	C.E. 607	The credibility of a witness may not be attacked until the witness has been sworn, and the credibility of a witness may not be supported unless it has been attacked.