



Evidence and oaths

Judges decide cases based on the evidence. Evidence is the facts used to support an assertion or conclusion. Oaths are related to evidence as witnesses must swear an oath or affirmation to provide the truth when giving evidence.

Evidence

A judge can only accept testimony or other forms of evidence in a trial if they are relevant to an issue the judge must decide. That is why you may hear lawyers in BC courtrooms object to some evidence as irrelevant and why the judge may rule the evidence cannot be admitted.

The evidence in the trial may consist of witness testimony and any photographs, documents or other physical items of evidence adequately identified by a witness and ruled admissible by the judge. Only evidence that is relevant and material (important to the issues in the case) is admissible. The word “admissible” means that the law of evidence will permit the judge to admit it as evidence in the trial and consider it when deciding your case.

Courts have explained relevance in statements like these:

"The threshold for relevance is not high. Evidence is relevant when it renders the existence or absence of a material fact in issue more or less likely." [R. v. Tremblay](#)

"Evidence is relevant when it tends to increase [or decrease] the likelihood of the existence of a material fact at issue in the proceedings." [R. v. M.C.](#)

Relevance is really a matter of everyday experience and common sense. Information can only be admitted as evidence if it helps to prove or disprove a fact that matters in the particular case.

If you want to testify about something or have a witness testify about something in a trial, you have to be able to answer this question: "What material fact at issue in the trial is this evidence logically connected to?"

Evidence that is not relevant

In family court hearings, separated parents may want to tell the judge about each other's faults. But section 37(4) of the *Family Law Act* says that when deciding issues involving a child's best interests, a judge may only consider a person's conduct if it substantially affects one of several factors identified in the Act. This means that parents cannot testify about each other's bad conduct unless it affects one of those factors. If it does not affect a factor, it is irrelevant.

Evidence that is relevant

At a small claims court settlement conference you may be ordered to exchange copies of all relevant evidence. This means you must give the other party all the material you possess that is connected to the issues in the case, not just material that helps your case, but also material that may hurt it. It is all relevant.

Submitting only relevant evidence helps to ensure that trials finish within the time set. It avoids arguments about issues that distract from the case.

Lawyers can help their clients by explaining in advance what evidence is irrelevant and why. People going to court without lawyers can improve their evidence by thinking in advance about what evidence is logically connected to the issues the judge will have to decide, and what is not.

Oaths

Everyone testifying in a court case must promise to tell the truth. In Canada witnesses may swear an oath on the Bible, another book of faith or make a solemn affirmation.

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