

EVIDENCE Part 2

Original evidence

Original evidence is defined as an out of court statement tendered for some purpose other than to establish the truth of the facts it contains. The making of the statement will wither itself be a fact in issue, or relevant to a fact in issue.

The statement as a fact in issue:

Where the making of a statement is, itself, a fact in issue, the statement will be admissible to show that it was made, but it will remain inadmissible as to the truth of its contents.

Statements relevant to a fact in issue:

Making of statement relevant to a fact in issue; Statement admitted to show the state of mind of the maker; Statement admitted to show state of mind of person who heard it; Statement admitted to allow tribunal of fact to draw inferences from falsity of statement.

Hearsay evidence

To prove the truth of its content. This includes an out of court statement made by the witness him or herself as well as an out of court statement made to the witness by someone else. The admissibility of hearsay evidence is set out under s 114 of The Criminal Justice Act 2003. S 115 of the Criminal Justice Act 2003 further tightens up the definition by making it clear that you need to consider the purpose of the person making the statement (as well as the purpose of the party relying upon it in court) when deciding whether a piece of evidence is hearsay evidence or not.

Expert witnesses

An expert witness may rely on published and unpublished material in reaching conclusions, draw on his or her own experience and that of colleagues, and may refer to research papers, learned articles and letters during the course of giving testimony, such documents being themselves admitted in evidence and supporting any inferences which can fairly be drawn from them.

Admissibility of expert evidence

The following conditions must be satisfied:

- The matter must call for expertise; the inquiry has to be into a matter of art or science which is likely to be outside the experience and knowledge of the tribunal of fact. Expert help is therefore unnecessary on matters relating to normal human nature and behaviour.
- The evidence must be helpful to the court in arriving at its conclusion;
- There must be body of expertise in the area in question;
- The particular witness must be suitably qualified as an expert in the particular field of knowledge; the witness should have sufficient skill and knowledge in relation to the field in question. There is no absolute requirement that the witness be professionally qualified, there being several areas where expertise is obtained through experience rather than study.
 - Permission to rely on the expert evidence must be obtained from the court

I. Match the expressions in English and Polish:

1 to give testimony	A dowód z ekspertyzy
2 the fact in issue	B oświadczenie złożone w celu
3 admitted evidence	C śledztwo
4 hearsay evidence	D prawda treści
5 a statement tendered in purpose	E artykuły badawcze
6 to draw inference	F przedmiotowy sąd
7 falsity of statement	G fakty sporne
8 a piece of evidence	H dopuszczone dowody
9 an expert witness	I naukowe publikacje
10 learned articles	J zeznawać
11 tribunal of fact	K wyciągnąć wniosek
12 an inquiry	L dowody ze słyszenia
13 expert evidence	M fałsz oświadczenia
14 the truth of contents	N dowód
15 research papers	O biegły sądowy

II. Answer the questions:

1. Will a fact in issue be admissible as to the truth of contents?
2. What are relevant statements admissible to show?
3. Where is the admissibility of hearsay evidence set out?
4. What do you need to consider deciding whether evidence is hearsay or not?
5. When is it necessary to call an expert witness?
6. What may an expert witness rely on?
7. How must the expert witness be qualified?

Bibliografia:

In Brief [online], [dostęp 31.01.2018] dostępne w Internecie: [http:// www.inbrief.co.uk/court-proceedings/evidence/](http://www.inbrief.co.uk/court-proceedings/evidence/)

Dictionary of Legal terms S.H. Giffis, Barron's Educational Series, Inc.;

Oxford Advanced Learner's Dictionary International Student's Edition

Ćwiczenia na licencji Creative Commons



Mgr Anita Krok