Preponderance of the Evidence

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Definition

The greater weight of the evidence required in a civil (noncriminal) lawsuit for the trier of fact (jury or judge without a jury) to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy and not on the amount of evidence. Thus, one clearly knowledgeable witness may provide a preponderance of evidence over a dozen witnesses with less-salient testimony, or a signed agreement with definite terms may outweigh opinions or speculation about what the parties intended. Preponderance of the evidence is required in a civil case and is contrasted with “beyond a reasonable doubt,” which is the more severe test of evidence required to convict in a criminal trial. No matter what the definition stated in various legal opinions, the meaning is somewhat subjective.

The quantum of evidence that constitutes a preponderance cannot be reduced to a simple formula. A preponderance of evidence has been described as “just enough” evidence to make it

more likely that the fact the claimant seeks to prove is true. It is difficult to translate this definition and apply it to evidence in a case, but the definition serves as a helpful guide to judges and juries in determining whether a claimant has carried his or her burden of proof. The majority of civil claims are subjected to a preponderance of evidence standard. If a court or legislature seeks to make a civil claim more difficult to prove, it may raise the evidentiary standard to one of clear and convincing evidence. For most civil claims, there are two different evidentiary standards: preponderance of the evidence and clear and convincing evidence. A third standard, proof beyond a reasonable doubt, is used in criminal cases and very few civil cases.

Cross-References

- ▶ [Beyond a Reasonable Doubt](#)
- ▶ [Burden of Proof](#)
- ▶ [Clear and Convincing Evidence](#)

References and Readings

- Melton, G. B., Pritila, J., Poythreess, N. G., & Slobogin, C. (2007). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers* (3rd ed.). New York: Guilford.