

COURSE DESCRIPTION

Welcome to Evidence Practice!

- ◆ This class is a practical course where students will learn how to:
 - Expand their knowledge of and familiarity with the Evidence Code.
 - Learn how to admit and exclude various types of evidence in a criminal and a civil setting.
 - Practice and demonstrate competence and knowledge of the Evidence Code through active class participation.
 - Master the art of addressing evidentiary issues in a public setting orally and instinctively.

- ◆ The classroom format will often reflect a courtroom hearing for a portion of each class and all students are expected to participate in each session.

LEARNING GOALS

After completion of this course, students should be able to:

- ◆ Recognize evidentiary challenges and provide responses thereto.
- ◆ Anticipate and Identify Evidentiary challenges before a case begins.
- ◆ Research and prepare a plan for anticipated evidentiary issues.
- ◆ Research, draft and **argue** motions in limine to address evidentiary challenges before a trial begins.
- ◆ Listen to questions asked in a mock court setting and quickly identify, object and/or respond to objections regarding testimony.

- ◆ Learn how to admit documentary and physical evidence.
- ◆ Make timely objections to evidence offered in court when appropriate.
- ◆ Understand and apply both the Federal and California Evidence Code to courtroom hearings.
- ◆ Work in teams to tackle legal issues.
- ◆ Draft a trial brief focusing on evidentiary issues.

PREPARATION FOR THE FIRST DAY OF CLASS:

- 1. READ the entirety of Volume 1 of the Problems and Materials in Evidence and Trial Advocacy.**
- 2. PREPARE OPENING STATEMENT FOR EITHER OF THE TWO FACTUAL SCENARIOS AND CHOOSE THE POSITION YOU WISH TO REPRESENT.**
- 3. Limit your opening to 8 minutes.**
- 4. All students will present their opening statements in class.**
- 5. Read Problems and Materials in Evidence and Trial Advocacy Volume 2 pages 3 and 4.**

Methodology

The Methodology of this course is based completely on active student participation. All students are expected to:

- ◆ Read the materials assigned for each class session.
- ◆ Research the Evidence Code and any case law that you believe will support your position for admissibility or exclusion (be prepared to address both California and Federal law).
- ◆ Be prepared, in your role as an advocate, to engage in oral argument based on the assigned problems.

- ◆ Actively participate after each argument in class-wide discussion of the issues raised by that argument.
- ◆ Prepare written notes for each assigned problem
- ◆ Review these notes before each class so that you can present your positions without reading them out loud.
- ◆ Be willing to actively participate in class.

SYLLABUS

WEEK 1: WEDNESDAY 16, 2019

Class introduction, expectations, goals.

The Evidence Code ... what it is and how we use it.

Presentation of opening statements by all students (please note all of Volume 1 of the Problems and Materials in Evidence and Trial Advocacy must be read before the first day of class).

Page 87 in Volume 2 of the Problems and Materials in Evidence and Trial Advocacy
Volume 1 of the Problems and Materials in Evidence and Trial Advocacy

WEEK 2: WEDNESDAY JANUARY 23, 2019

Prepare and submit your initial trial brief.

Choose your position in either of the case scenarios and prepare a full trial brief that includes:

- ◆ A statement of the case (you have a trial date in 90 days).
- ◆ A statement of the facts of your case. (Factual description)
- ◆ A cursory list of all evidentiary issues that may arise in your case. (Make a list of all evidence you want to have admitted and another list of evidence that you want to keep out.)

Read FRE 401, 402 and 403 and pages 52 – 62 of the Courtroom Evidence Handbook.

Read and prepare problems 1-22 in Problems and Materials in Evidence and Trial Advocacy Volume 2 (hereinafter referred to as Volume 2).

WEEK 3: WEDNESDAY JANUARY 30, 2019

Hearsay and its exceptions

FRE 801-807.

Read California Evidence Code Sections 1200 – 1370-1390

Volume 2 problems 214-305.

WEEK 4: WEDNESDAY FEBRUARY 6, 2019

Hearsay continued.

Writings, Recordings, Documentary Evidence and Judicial Notice

FRE 201, 901-903, 1001-1008 803(5) – 803(8).

Volume 2 problems 73-97, 305-312.

WEEK 5: WEDNESDAY FEBRUARY 13, 2019

Opinions, Experts, Scientific Evidence

FRE 701-706.

Volume 2 problems 62-64, 155-183.

Privileges

FRE 501-513.

Volume 2 problems 184-213.

WEEK 6: WEDNESDAY FEBRUARY 20, 2019

2nd draft of Trial Brief is Due along with Motion in Limine addressing evidentiary issues that will be argued in class focusing on relevance, hearsay, “writings” and “scientific/expert testimony”.

WEEK 7: WEDNESDAY FEBRUARY 27, 2019

Witnesses - Character Evidence – Impeachment – Rehabilitation

FRE 404-415, 608 - 615

Volume 2 problems 40 - 52, 98-112, 128-148

SPRING BREAK March 4-10 2019

WEEK 8: WEDNESDAY MARCH 13, 2019

Midterms: Evidentiary Motion in Limine or 1538.5 (for criminal case)
presented with witnesses written and verbally argued

WEEK 9: WEDNESDAY MARCH 20, 2019

Midterms: Motion in Limine written and verbally argued

WEEK 10: WEDNESDAY MARCH 27, 2019

Create and submit a one-page list of objections

Prepare and present opening statements
Volume 2: pages 51 – 53, problems 1 and 2

Direct and Cross Examination exercise
Volume 2 page 53 problem 3

WEEK 11: WEDNESDAY APRIL 3, 2019

Direct and Cross Examination exercises
Volume 2 pages 53-57 Problems 4 – 15

WEEK 12: WEDNESDAY APRIL 10, 2019

Introduction of Exhibit exercises
Volume 2 pages 57 – 61 Problems 16 – 33

WEEK 13: WEDNESDAY APRIL 17, 2019

Character Evidence
Volume 2 pages 61- 62 Problems 34-39

Impeachment

Volume 2 pages 63-67 Problems 40-45

Complex evidentiary problems

Volume 2 pages 67 - 70

WEEK 14: WEDNESDAY APRIL 24, 2019

Final Mock Trials and Motion in Limine

ATTENDANCE, EXAMINATIONS, & GRADES

Class attendance is mandatory. Students who miss more than two class sessions are subject to administrative dismissal from the course per the WSCL Attendance Policy (reprinted in the Student Handbook).

Students earn a numeric grade for the course. The grade will consist of a mock-motion in limine for the mid-term and a mock trial for the final exam. All students are expected to participate in each class. The breakdown for grades will be:

30 points for class participation;

20 points for the mock verbal and written motion in limine (mid-term)

30 points for the mock verbal trial (final)

20 points for the written trial brief (final)

Students will argue evidentiary issues in a mock trial forum weekly. Students will learn how to format, draft, research and write a trial brief. Advocacy and preparation will be expected as students play the roles of prosecutors, defense attorneys and witnesses each week. Students will be graded on their preparation, knowledge, articulation, and presentation of these evidentiary issues before the class.

PREPARATION, PARTICIPATION, & PROFESSIONALISM

Participation & Professionalism (P&P): It is expected that each student come prepared to class each week. Preparation for this class will include:

Western State College of Law Programmatic Learning Outcomes: Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker’s ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author’s ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory

authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients’ needs and goals, including a sensitivity to clients’ background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.



Argosy University Institutional Learning Outcomes:

1. Analytical Reasoning
Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems.
2. Effective Communication
Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation.
3. Information Competency
Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action.
4. Interpersonal Effectiveness
Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals.
5. Personal and Professional Integrity and Ethical Behavior
Demonstrate a multi-dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.
6. Professional Competence
Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession.