

**WESTERN STATE COLLEGE OF LAW**

**EVIDENCE Section 213A**

**Spring 2024 SYLLABUS**

**Mondays 6:40 PM-9:50 PM**

**And Wednesdays (first 4 weeks only) 6:40-9:50 pm**

**4 Units**

**Professor Robert Molko**

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**1. Objectives and Learning Outcomes:**

This course has two objectives. First and foremost, the course will assist you to develop the analytical skills which are essential for you to “handle” evidence issues, *i.e.*, to identify from the facts the appropriate issues to be addressed and to address these issues by ***creatively and intelligently*** applying the rules of evidence to the facts. Part of this process will be the development of an approach to analyzing evidence issues. Second, the course will provide you with an introductory survey of most of the important issues in Evidence Law. This will include how the 6<sup>th</sup> Amendment Right of Confrontation preempts any statutory evidence rule in criminal cases.

Evidence issues arise in criminal and in civil proceedings; and they arise in both the pretrial phase of a matter and at trial. Our goal in this course will be several fold: (i) first, as with virtually all law school courses, we will learn and understand both Federal and California “rules”, as well as the interpretative case law; (ii) we will practice applying the rules to real life practice problems (of which there are approximately 120 in our text); and (iii) in the process, we will exercise that most important of all lawyer skills, imagination, in creating arguments for and against the admissibility of particular evidence.

Because of time limitations, some evidence topics will not be addressed at all, such as presumptions and judicial notice. These are, however, important areas of evidence law. Students can obtain a basic understanding of these topics from Lilly’s Principles of Evidence – Concise Hornbook Series, a respected and concisely written hornbook (see *infra* “Recommended Text”). After completing the current course, students can develop a more refined understanding and mastery of these and other evidence issues by taking one or more advanced evidence electives such as Evidence Practice and Criminal Evidence. Consult the W.S.C.L. Catalogue for course descriptions.

It is expected that when you have completed this course, you will be able to: i) demonstrate knowledge of substantive evidence law; ii) argue the admissibility of evidence in different contexts by applying the evidence rules that you have learned; iii) identify the evidentiary issues implicated in any fact pattern and apply the learned rules to reach the appropriate conclusions about the admissibility of the evidence at issue; iv) effectively

communicate the issues involved, the legal argument and the proper analysis both verbally and in writing; v) identify the legislative history and social policy behind each of the evidence rules.

**2. Required Texts:**

Evidence, A Context and Practice Casebook, Pavel Wonsowicz, Carolina Academic Press, Third Edition 2022

2020-2021 Federal & California Evidence Rules, Leach & Uhrig, Wolters Kluwer Publisher  
Printed on Facing Pages for Comparative Study

3. ***The Staircase* movie:** The Wonsowicz casebook uses a documentary movie – *The Staircase* – as illustrative of the role of the rules of evidence we will be studying. I have assigned 29 clips from the movie as **mandatory** “watching.” You should be able to watch the clips STAIRCASE on your personal computer or on a computer in the library. If you do not watch the clips before class, a portion of our class discussion will not mean very much. You can access these clips by using the provided URL in the syllabus attachment. **Clips 1-7 are required viewing for the first class.** The list of clips will be posted on the webcourse and at the end of this syllabus.

**4. Optional books:**

Principles of Evidence – Concise Hornbook Series, Graham C. Lilly; Eighth edition, West Publishing Co., 2019

Evidence-A Concise Comparison of the Federal Rules with the California Code, Miguel Mendez, West Publishing Co., 2016 Edition

This text is harder to use than the required Leach & Uhrig text but its explanation of the differences between the Federal and California rules is more complete.

A Student’s Guide to Hearsay, Fishman, LexisNexis, 5th Edition 2019

Emmanuel series for Multiple Choice questions and Answers 7<sup>th</sup> Edition Wolters Kluwer Publisher

Emmanuel series Strategies and tactics for the FINZ Multistate Method 5<sup>th</sup> edition Wolters Kluwer Publisher

**5. “In-Class” Methodology:**

The ***Federal Rules of Evidence (FREs)*** and the **California Evidence Code** are the centerpieces of the course. Evidence law was, at one time, universally derived from case law (common law). Today, many jurisdictions, including California and the federal courts, have codified their respective laws of evidence. 42 states have adopted the FREs as their model; California has not. However, in all jurisdictions, case law interpretation of the evidence codes still shapes and refines the rules of evidence. Therefore, the “case method”, with which you are already familiar, will be used extensively in-class to develop your ability to apply the codes in different factual situations, including but not limited to the problems in the Wonsowicz casebook. Brief all the assigned reading cases and resolve each of the assigned problems in that book. Bring **both** the Wonsowicz case book **and** the Leach & Uhrig rules book to **each** class session.

**California Evidence law is a bar-tested subject.** This means that when you take the California Bar exam (and the exams in this class) you will be tested on the FREs and the California Evidence Code. There are some major differences between the FREs and the California Evidence Code, as well as major differences in California between admissibility of evidence in criminal cases as compared to civil cases. You will notice that the Wonsowicz casebook only addresses the FREs and does not address the California Evidence Code. Therefore, when the assigned casebook material refers to any rule of evidence, you **MUST** find and read:

- A) The corresponding comparative facing pages (**both** the FRE **and** the Ca. Evidence Code section) in part I of the Leach & Uhrig book
- B) The text of the corresponding FRE and related legislative history material in part II of the Leach & Uhrig book
- and**
- C) The text and related legislative and law review commission comments of the corresponding California Evidence Code section in part III of the Leach & Uhrig book.

As with any statutory material, legislative history is an essential resource for statutory interpretation. Be prepared to address in class **how a particular California Evidence Code section differs from its FRE counterpart**. You will find the Leach & Uhrig book's comparison of California and Federal evidence code provisions especially useful in this regard.

When an assignment includes a case from another jurisdiction that has not adopted the Federal Rules of Evidence, please prepare to address in class how you think the case would be decided under the Federal Rules and the California Evidence Code. The required reading from the casebook for each class is relatively modest, but the comparison and supplemental reading is an integral part of each class. When a class ends in the middle of a syllabus assignment, prepare for the next class by reviewing that assignment as well as any new material assigned for that next class.

The class assignments include **all the problems** in the assigned pages of the Wonsowicz casebook. Be prepared to discuss these Hypotheticals in class under both the Federal and California rules. There are approximately 120 practice problems in the text. In order to be prepared for class you should have prepared your answers to those practice problems **before class**.

We will be using the **Turning Technology Polling system** in class. A **CLICKER** or the **APP** is a mandatory requirement for this course. We will use it in every class session. **IF** the class is held in person (as we presently anticipate), you may use the APP or lease a Turning Technologies **Clicker** as an alternative to the APP. The clicker is the QT by Turning Technology. It will be available for leasing at the bookstore or directly from the company. You may also buy one from my previous students in Evidence. You will need to register the clicker for the class at turningtechnologies.com. In the alternative, you may purchase an **APP** for your cellphone from Turningtechnologies. Turning Technologies is now part of ECHO360. You can download this APP from <https://account.turningtechnologies.com/account/authenticate/index?create=true> . **IF** the class is held strictly online (depending on the health crisis status) the Clicker will not work with an online class. **My recommendation** is that you get the **APP** because it will work if we are in-person and also if we are online.

## 6. Preparation for Class and Classroom Participation:

Legal education is a co-operative venture that requires your active engagement in class discussion. Class Participation is also a component of the grade in this course. Students are encouraged to ask questions. All views are welcome. A common maxim in law is that “reasonable minds may differ”. You are expected to respect others who disagree with you. The quality of your answers and comments is more important than the quantity.

**Class participation** is a **mandatory** part of this course. A student whom I deem unprepared will be treated as absent for that day. You will be expected to stay sufficiently ahead of the class in your preparation to ensure your readiness to participate for each class. Neither the assertion that you did not anticipate the class getting so far, nor that you read the assignment too long ago to remember it, will excuse a failure to be prepared for class. **15% of your semester grade** will be based on your **preparation** for class, your **attendance**, your class **participation** and any required **assignments (including CALIs and UWORLD)** that must be timely completed or turned in.

**Vocabulary is important.** Effective lawyers talk and write like lawyers. Use of the correct word(s) and complete, coherent sentences is not a sinister requirement of overly picayune law professors. It is essential to the effective study and practice of law. You may find a word or expression in your reading for which you just don’t know the meaning. Rather than meandering “in a fog”, try to find or ask about the meaning.

I will **randomly** call on students in class to describe cases or rules and to answer questions. **There will be no such thing as a “free pass” day as there is normally no such thing in practice. An “I don’t know” answer will be unacceptable the entire semester.** Please note, **however, that there is a significant difference between being unprepared and being unable to answer a particular question.** No one knows the answer to every law-related question. You will **not** be downgraded or ridiculed for venturing an incorrect answer. You should, however, be sufficiently familiar with the cases, notes, questions and problems to discuss them when called upon to do so. As you probably observed during other semesters, classroom participation has several benefits. First, if well done, it helps the entire class. Second, it enables you to test your knowledge and understanding. The more you test that the better you will understand the material. Finally, clear oral communication is one of the essentials of a high-quality legal work life. Among other reasons for you to be prepared is that it is fairly inconsiderate of the time and efforts of your fellow students and your professor to come to class unprepared.

**Preparation** is a component of the grade in this course. Students are expected to have carefully read and briefed all cases (including dissenting/concurring opinions) and to have read and analyzed each of the casebook problems scheduled for discussion in class. You are expected to spend **at least 8 hours a week** (i.e., 2 hours for each unit) in your preparation for this course. The preparation will be even more demanding at the beginning of the semester (i.e., **12 hours a week**) because **we will have class twice a week for the first 4 weeks of the semester.** Each student should be prepared to be called upon in class to summarize the pertinent facts, issues, law and court findings and rulings of a case and/or discuss the resolution of any of the assigned casebook problems. The quality of the recitation is more important than the quantity. A concise summary of the pertinent facts is far better than a recitation of all the facts (many of those are not relevant to the evidentiary issues presented) in the case. In order to discuss a case intelligently in the limited time available in class, students should prepare a brief to assist them in recitation and discussion and have it readily available if called upon in class. In other words, students should not be fumbling through their textbooks or

computer screens to find their “brief”. Book briefing is a poor idea and is discouraged; it is not an effective and acceptable sole method of briefing; it also often causes delays in the presentation of cases in class. Be prepared to also discuss the problems, notes and comments from the casebook. CALI exercises are designed to supplement and test your understanding of a subject that has been covered in the Casebook and/or class. They are also good tools to practice answering multiple choice questions. You will first need to **register for this class on the CALI website at cali.org**. In order to access the proper CALI exercise and get credit for completing it, you **MUST** use the URL link provided on the webcourse for each particular assignment <https://www.cali.org/courses/10482>. If you do not use this URL link, you will not get credit for the assignment. You must complete each exercise by the date indicated on the syllabus. They are due by the class immediately AFTER the particular syllabus section discussion is completed in class. Other exercises (e.g., UWORLD) may be assigned during the semester.

## 7. Exams and Grading

There will be a “closed-book” midterm exam in Essay and Multiple Choice formats which will count as 15% of your final grade. There will also be a four-hour “closed-book” final examination which will count as 70% of your final grade. The final exam will consist of an essay component and a multiple-choice component. **The final examination may test you on any material assigned in the Wonsowicz casebook, as well as any material covered in class and in the assigned CALI (computer-aided) or other exercises (e.g., UWORLD).** The remaining 15% of your semester grade will be based on your preparation for class, your attendance, your class participation and timely completion of all required assignments (including CALIs and UWORLDS). As the semester progresses, I may indicate in class and/or the webcourse any additional required assignments. It is your responsibility to be aware of any such assignments and their due dates. You should check the webcourse site regularly for any changes in the syllabus and/or any assignments.

After the first weeks of class, some past essay examinations will be placed on the webcourse site; you can use those as practice exams. As the semester progresses, if you would like feedback on your answers to some of these exam questions, please make an appointment (reserve time in the LexisNexis webcourse schedule). You must email me your practice exam question and answer at least 2 days before your consultation so that I can review them beforehand.

**Writing is important.** Even though many evidence issues are initially decided “on the run” in the midst, for example, of testimony by a witness, most lawyers write more than they talk. Practice good writing as much as you can. Write in short complete sentences and short paragraphs using proper grammar, spelling, punctuation, capitalization and syntax. Every single written opinion in our text and every single formal rule of evidence is the product of someone’s attempt to do some very careful, lawyerly writing.

## 8. Attendance & Decorum:

Successful completion of this course is dependent upon satisfaction of the W.S.C.L. Attendance Policy, which is reprinted in the Student Handbook. **IF YOU MISS MORE THAN FOUR (4) CLASSES, YOU WILL RECEIVE A GRADE OF “0” AND WILL NOT BE PERMITTED TO ATTEND SUBSEQUENT CLASSES.** Students leaving and returning to their seats, while class is in session, disrupt the concentration of students and, therefore, the learning environment. Please refrain from walking in and out of your online zoom position during the class unless it is

absolutely necessary. ***Cell phones must be turned off*** during class ***and you must not access the internet*** during class unless specifically requested to by me. No Texting/Tweeting or equivalent is allowed. You will be asked to leave the classroom for any violation of these rules, and you will be deemed absent for that day also.

You may use your computer but it should be open to course related materials and not to your email, eBay etc. However, the use of computers in the classroom should not interfere with your ability to pay attention (**actively listening** v. just hearing the words spoken) to what is going on. I have observed that students who are too intent on recording every word spoken often will have little understanding of what those words mean.

### **9. Requirements for Students in online Zoom Sessions (if they are necessary):**

Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session. **Arrive to class at least 10 minutes early** and **dressed as you would to attend an in-person class**. Come prepared, as you would for an in-person class. **Turn your camera on**. Mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera. Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session. If you have to miss a Zoom session, or arrive late or leave early, notify the instructor in advance, as you would for an in-person class.

Participation in Zoom classes is no less extensive or required than an in-class session. Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.

If you are using your computer to take notes and/or using an e-casebook, remember that you will not necessarily be able to use those apps and watch the Zoom session. Figure out how you will resolve that technological problem before your first-class session and consider modifications to your normal note taking style or a two-screen set-up.

If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your instructor so other accommodations can be explored.

If the instruction is online, we will be using the following zoom url for all classes and office hours:

**983 4337 4019** Password **974602**

Do NOT share or post any part of the Zoom session on any other media including social media such as Facebook, YouTube, etc...

You should be in your seat at the commencement of class. It is fairly inconsiderate (not to mention unprofessional) to walk in late. We will have a break midway during each class. Similarly, you should not leave until the end of class. If you have an emergency that causes you to have to leave during the class, please do so unobtrusively. If you have a disability which prevents you from remaining in your seat during the class, please contact the Dean of Students.

Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the instructor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your instructor will inform you about the ways in which you should use these tools in that particular class.

**10. Office Hours: Mondays 4:30-6:00 pm and Wednesdays (first four weeks only) 4:30-6:00 pm.**

A word from the experience of the past: many students who should have seen me during office hours did not. If you feel lost or confused, you should do everything you can to get yourself to where you understand the material. That includes getting help from me during office hours. Please make appointments (at least two days in advance) directly with me by email. My office hours are contained in this syllabus. As a courtesy to other students, do not sign up for a “block” of consecutive appointments, or sign up for multiple consecutive weekly appointments all at once. **If needed, I will always find mutually convenient time to meet with you in person or online.** Please put your email address and your telephone number on the appointment list, so that I may contact you if I have to reschedule your appointment. If you are running late for an appointment or if you cannot keep a scheduled appointment, please email me.

**11. Webcourse:**

**LexisNexis Web course: Spring 2024 Evidence**

You MUST also register on the webcourse for this class. The webcourse will provide me with a method to communicate with you by posting assignments, syllabus modifications, announcements, PowerPoints, etc.... and by mass emailing you, if necessary. I will also use the Discussion Forum on the webcourse to share my answers to students’ relevant questions. This webcourse will also provide you with the URL link that you MUST use for each assigned CALI exercise. There are computers in the library if you need to use one.

**12. Disability Services Statement:**

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza’s phone number and email address are:(714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu) . When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a

concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law’s “Policy against Discrimination and Harassment.”

### 13. EVIDENCE 213B Spring 2024 Syllabus

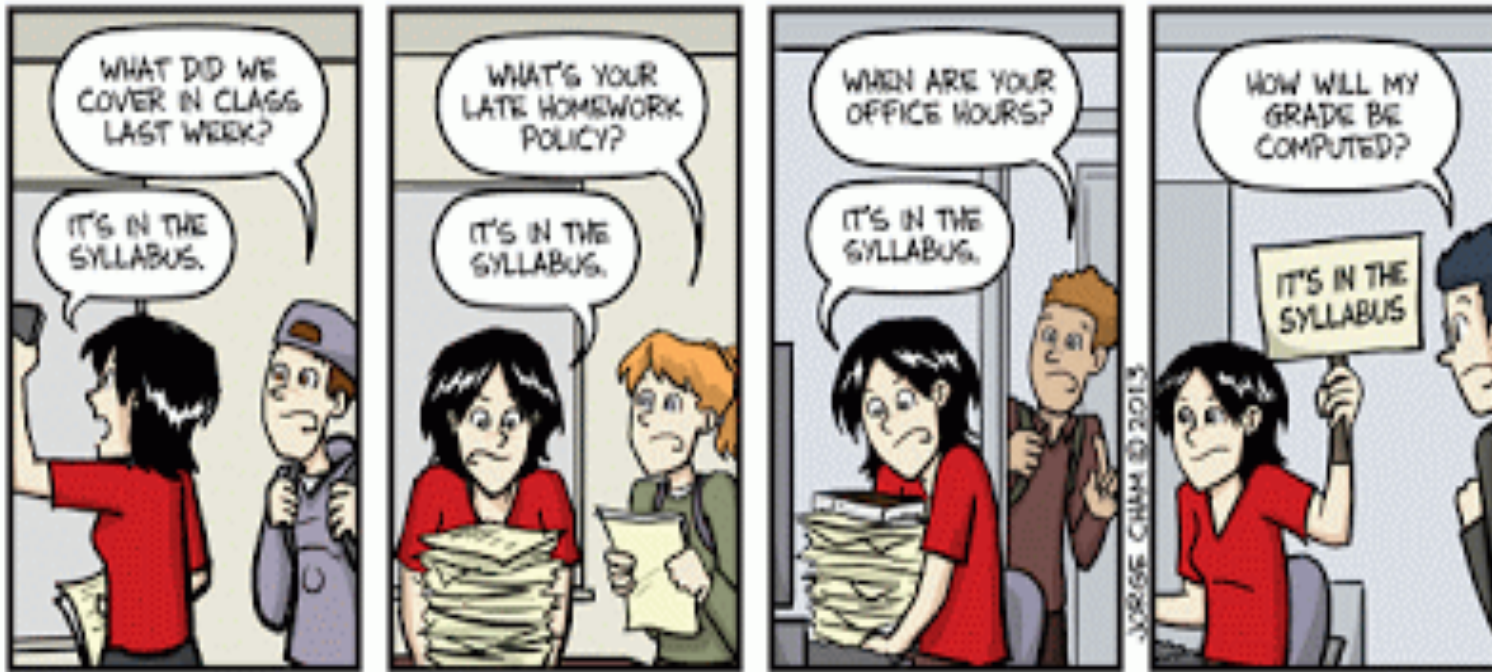
<i>Week</i> 3-hour classes	<i>Subject</i>	<i>Reading Assignment</i> Wonsowicz casebook	<i>CALI</i> [MUST Use URL] & <i>Other Assignments</i>	<i>Federal Rules of Evidence and California Evidence Code</i> Additional Reading Assignment
<b>Jan 17 &amp; 22</b> <i>4 hours</i>  <i>2 hours</i>	<ul style="list-style-type: none"> <li>• Introduction to Evidence Read for background*</li> <li>• Competency of Witnesses</li> <li>• Burden of Proof</li> <li>• <u>Introduction to Relevance.</u> <ul style="list-style-type: none"> <li>○ Discretion to Exclude</li> <li>○ Limiting Instruction</li> </ul> </li> </ul> <u>Relevance:</u> <ul style="list-style-type: none"> <li>• Character Evidence</li> <li>• Habit</li> </ul>	3-43*  51-78 81-103  139- 185	<b>STAIRCASE</b> Clips 1-7	* May be tested on the exams  FRE 401, 402, 601, 602,603,606(b) Ca. Ev. 210, 350, 351, 500-522, 700-701, 702,710, 795, 1150 FRE 403, Ca. Ev. 352 FRE 105, Ca. Ev. 355  FRE 404,405, Ca. Ev. 1100-1101, FRE 406, E.C. 1105
<b>Jan 24 &amp; Jan 29</b> <i>4 hours</i>  <i>2 hours</i>	Relevance (Ct’d): <ul style="list-style-type: none"> <li>• Character Evidence               <ul style="list-style-type: none"> <li>○ Propensity Ban</li> <li>○ Exceptions to ban</li> </ul> </li> </ul> <u>Specialized Relevance Rules:</u> <ul style="list-style-type: none"> <li>• Subsequent Remedies</li> <li>• Offers to Compromise</li> <li>• Payment of Medical expenses</li> <li>• Pleas and pleas discussions</li> <li>• Liability Insurance</li> </ul>	187-216  104-138	<b>STAIRCASE</b> Clips 8-10   → <b>CALI</b> “Character Evidence Under Federal Rules”	FRE 412-413, 414,415 Ca. Ev. 1102, 1103,1106,1108, 1109 <b>Prop 8</b> (Ca. Const. Art. I sec. 28(f)(2) [ <b>Leach</b> p. III-171] <b>P v. Ewoldt</b> (1994) 7 Cal.4 <sup>th</sup> 380  FRE 407, 408, 409, 410,411 Ca. Ev. 1151, 1152, 1153,1154, 1155



<b>Jan 31 &amp; Feb 5</b> <i>6 hours</i>	<ul style="list-style-type: none"> <li>Impeachment of a Witness</li> <li>Rape Shield Laws</li> </ul>	217-269	<b>STAIRCASE</b> Clips 11-14 →CALI “Impeachment and Rehabilitation of Witnesses”	FRE 607,608,609, 611,613, 615, 705 Ca. Ev. 769, 770, 780, 785, 786-787, 788, 721 FRE 412, Ca. Ev. 1103
<b>Feb 7 &amp; Feb 12</b> <i>2 hours</i> <i>4 hours</i>	<ul style="list-style-type: none"> <li>Authentication</li> <li>Writings: Best Evidence Rule</li> <li>Personal Knowledge &amp; Opinions</li> <li>Lay opinions</li> <li>Experts</li> <li>Proper Methodology  <i>Daubert test v. Kelly-Frye test</i></li> </ul>	491-511  513-516  516-564	<b>STAIRCASE</b> Clip 23  <b>STAIRCASE</b> Clips 24-27  →CALI “Expert and Opinion Evidence”	FRE1001-1008; Ca. Ev. 1520-1523, 1550-1551 FRE 901-903; Ca. Ev. 1400-1421, 1450-1454, 1552-1553, 1530-1532 <b>No class on Monday February 19</b> FRE 701-706 Ca. Ev. 800-805, 720, 721, 722 <i>P. v. Leahy</i> (1994) 8 Cal.4 <sup>th</sup> 587 <i>Roberti v. Andy's Termite</i> (2003) 113 Cal. App. 4th 893
<b>Tuesday Feb 20</b>	<ul style="list-style-type: none"> <li><b>Midterm</b></li> </ul>			<b>Legislative day: class meets on Tuesday February 20</b>
<b>Feb 26 &amp; March 11</b> <i>6 hours</i>	<ul style="list-style-type: none"> <li>The Hearsay Rule</li> <li><b>Questions 1 – 23</b></li> <li>Forfeiture by wrongdoing</li> <li>Preliminary Questions of Fact</li> <li>Dying Declarations</li> </ul>	271-295 295-298 401-403  387-392	<b>STAIRCASE</b> Clips 15-17 →CALI “Hearsay from Square One: The Definition of Hearsay” →Turn in Answers to <b>Q1-23</b> (p.251-253) & <b>Q1-75</b> →	FRE 801 Ca. E.C. 1200 FRE 804(b)(6), Ca. E.C. 1350 FRE 104(a) and (b) Ca. E.C. 405,403 <b>Spring Break March 4-8</b> FRE 804(b)(2), Ca. E.C. 1242 <b>Questions 1-75 will be posted on the webcourse</b>
<b>March 18 &amp; 25</b> <i>6 hours</i>	<ul style="list-style-type: none"> <li>Excited Utterances</li> <li>Present Sense Impression</li> <li><b>6 A Right of Confrontation</b> (<i>Crawford v. Washington</i>)</li> <li><b>6A: Davis v. Washington</b></li> <li><b>6A: Michigan v. Bryant</b></li> <li><b>6A: Ohio v. Clark</b></li> <li>Admissions</li> </ul>	333-337  413-459  312-333	<b>STAIRCASE</b> Clips 18-22  →CALI “The Concept of Hearsay”  →CALI Confrontation of Hearsay Declarants	FRE 803 (2),Ca. E.C. 1240, FRE 803 (1), Ca. E. C. 1241  <i>P.v. D'Arcy</i> (2010) 48 Cal. 4 <sup>th</sup> 257,265-269, 288-292 <i>Giles v. California</i> (2008) 554 U.S. 353 <i>Ohio v. Clark</i> (2015) 135 S. Ct. 2173  FRE 801(d)(2) Ca. E.C. 1220, 1221, 1222, 1223.

<p><b>April 1</b></p> <p><i>3 hours</i></p>	<ul style="list-style-type: none"> <li>• Admissions (continued)</li> <li>• Former Testimony</li> <li>• Declarations Against Interest</li> </ul>	<p>377-386</p> <p>392-401</p>		<p>FRE 804(b)(1), Ca. E.C. 1290-1293</p> <p>FRE 804(b)(3), Ca. E.C. 1230</p>
<p><b>April 8 &amp; 15</b></p> <p><i>6 hours</i></p>	<ul style="list-style-type: none"> <li>• Business Records</li> <li>• Public Records</li> <li>• <b>6<sup>th</sup> A: <i>Melendez-Diaz, Bullcoming v. New Mexico Williams v. Illinois</i></b></li> <li>• State of Mind/Physical state (<b><i>Hillmon Doctrine</i></b>)</li> <li>• Statement for Medical Diagnosis or Treatment</li> <li>• Prior Identification</li> <li>• Past Recollection Recorded</li> </ul>	<p>357-367</p> <p>368-376</p> <p>459-481</p> <p>338-347</p> <p>347-350</p> <p>309-311</p> <p>350-357</p>	<p>→CALI “The Hearsay Rule and Its Exceptions”</p>	<p>FRE 803(8), 803(10)</p> <p><b><i>Melendez-Diaz</i></b> (2009) 557 U.S. 305</p> <p><b><i>Williams v. Illinois</i></b> (2012) 132 S. Ct. 2221</p> <p>FRE 803(3), Ca. E.C. 1250, 1251, 1252, 1260, 1261</p> <p>FRE 803(4), Ca. E.C. 1253</p> <p>FRE 801(d)(1)(C), Ca. E.C. 1238.</p> <p>FRE 803(5), Ca. E.C. 1237.</p> <p>FRE 803(6) - 803(7), Ca. E.C.1270-1280</p>
<p><b>April 22</b></p> <p><i>3 hours</i></p>	<ul style="list-style-type: none"> <li>• Multiple hearsay levels</li> <li>• Prior Convictions</li> <li>• Prior Inconsistent Statement</li> <li>• Prior Consistent Statement</li> <li>• Residual Exception</li> <li>• Due Process</li> </ul> <p><b>Privileges</b></p> <ul style="list-style-type: none"> <li>• Attorney-Client</li> </ul>	<p>298</p> <p>299-303</p> <p>303-309</p> <p>404-412</p> <p>481-490</p> <p>575-597</p>	<p><b>Turn in Answers to Questions 76 – 125 →</b></p> <p><b>STAIRCASE Clips 28-29</b></p>	<p>FRE 805, Ca. E.C. 1201</p> <p>FRE 803(22), EC 1300</p> <p>FRE 801(d)(1)(A), Ca. E.C. 1235</p> <p>FRE 801(d)(1)(B), Ca. E.C. 1236, 791</p> <p>FRE 807. None in Ca.</p> <p><b>Questions 76-125 will be posted on the webcourse</b></p> <p>FRE 501, Ca. E.C. 911-919</p> <p>Ca. E.C. 950-962.</p>

<b>April 29</b>  <i>3 hours</i>	Privileges (Ct'd) <ul style="list-style-type: none"> <li>• Psychotherapist-Patient</li> <li>• Physician-Patient</li> <li>• Marital</li> <li>• 5<sup>th</sup> Amendment</li> <li>• Other privileges</li> <li>• Waiver of privilege</li> </ul>	606-616  597-606  617-619		Ca. E.C. 1010-1027. Ca. E.C. 990- 1007. Ca. E.C. 970-973, 980-987. 5th Amendment, Ca. E.C. 930, 940 Ca. E.C. 1030-1034 FRE 502
TBD	Review Session		<u>Suggested review Qs:</u> CALI FRE 801(d) & Multiple Hearsay	<u>Suggested review Qs:</u> <p style="text-align: center;"><b>CALI</b></p> Preliminary Fact finding under Rule 104



# IT'S IN THE SYLLABUS

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## *The Staircase* Video Clips

The material in our casebook is accompanied by a series of clips from the 2004 documentary *The Staircase*. These clips are hosted on CAP's private Vimeo account. Each video requires the password "**WonsowiczEvidence**" to be viewed. Please use the following links to access these clips:

Evidence 213B Syllabus Molko Spring 2024.doc  
Molko  
January 7, 2024; p. 12

Professor Robert

**Chapter 1:** <https://vimeo.com/227635969>  
**Chapter 2:** <https://vimeo.com/227743187>  
**Chapter 3:** <https://vimeo.com/227743287>  
**Chapter 4:** <https://vimeo.com/227743344>  
**Chapter 5:** <https://vimeo.com/227743407>  
**Chapter 6:** <https://vimeo.com/227743490>  
**Chapter 7:** <https://vimeo.com/227743565>  
**Chapter 8:** <https://vimeo.com/227743629>  
**Chapter 9:** <https://vimeo.com/227743715>  
**Chapter 10:** <https://vimeo.com/227743796>  
**Chapter 11:** <https://vimeo.com/227744365>  
**Chapter 12:** <https://vimeo.com/227743823>  
**Chapter 13:** <https://vimeo.com/227743828>  
**Chapter 14:** <https://vimeo.com/227744461>  
**Chapter 15:** <https://vimeo.com/227743857>  
**Chapter 16:** <https://vimeo.com/227743884>  
**Chapter 17:** <https://vimeo.com/227743895>  
**Chapter 19:** <https://vimeo.com/227744874>  
**Chapter 20:** <https://vimeo.com/227744891>  
**Chapter 21:** <https://vimeo.com/227744906>  
**Chapter 22:** <https://vimeo.com/227744922>  
**Chapter 23:** <https://vimeo.com/227744936>  
**Chapter 24:** <https://vimeo.com/227745216>  
**Chapter 25:** <https://vimeo.com/227745462>  
**Chapter 26:** <https://vimeo.com/227745232>  
**Chapter 27:** <https://vimeo.com/227745296>  
**Chapter 28:** <https://vimeo.com/227745850>  
**Chapter 29, clip 1:** <https://vimeo.com/227745648>

## **14. 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.