



WESTERN STATE COLLEGE OF LAW

AT WESTCLIFF UNIVERSITY

Evidence Practice

Adjunct Professor Kimberly Menninger kmenninger@occourts.org

Spring: Thursday

6:00p.m.– 9:00 p.m.



REQUIRED TEXT Robert Burns, Steven Lubet, Richard Moberly, James H. Seckinger, **Problems and Materials in Evidence and Trial Practice**
(Lexis/NITA) 6TH Edition
Volumes One and Two

Federal and California Rules of Evidence

Suggested Reading:

Thomas A. Mauet and Warren D. Wolfson, Trial Evidence, (Wolters Kluwer)



COURSE DESCRIPTION

Welcome to Evidence Practice!

This class is a practical mock trial/hearing course where students will learn how to:

- Expand knowledge of and familiarity with the Evidence Code;
- Learn how to admit and exclude various types of evidence in a courtroom;
- Practice and demonstrate competency and knowledge of the Evidence Code in a mock hearing setting;
- Master the art of addressing and responding to evidentiary objections/issues in a public setting, orally and instinctively;
- Write and argue motions in limine;

- Write a trial brief outlining evidentiary motions;
- Argue those motions in class;
- Conduct a mock trial focusing on evidentiary issues and objections;



LEARNING GOALS

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

- Evaluate Evidence to determine relevance;
- Evaluate evidence to consider admissibility;
- Use the Evidence Code to admit, exclude and limit evidence;
- Lay a proper foundation for the admission of evidence;
- Learn how to think and speak on your feet;
- Research, write and argue evidentiary motions in limine;
- Draft a trial brief;
- Conduct a mock trial including evidentiary objections;



METHODOLOGY

Each class will be spent working through problems from the assigned book “Problems and Materials in Evidence and Trial Practice, Volume II”. The problems focus on two cases, one civil and one criminal contained in Volume 1 of the same book. Each class students will be presenting mock arguments and analysis in one or both cases on the evidentiary issues presented in a mock trial setting. All students are expected to participate in the mock hearing scenarios. Students will act as attorneys and witnesses throughout the class. Volume Two, provides a series of questions and considerations regarding the law surrounding the evidentiary issues. You should read 20 pages of Volume 2 per week (starting with week 1) to be prepared for the discussions that will track this workbook. Access to the Evidence Code (California and Federal) is necessary as you will be expected to state code sections you are referring to by number or by description. Some objections will be case law driven and you will need to be prepared to site those cases in class argument where the evidence code doesn’t meet the needs of the party.

You will draft a trial brief and argue the motions in limine.

You are expected to:

- Read 20 pages of Volume 2 each week & any additionally assigned materials each class;
- Research the Evidence Code and case law to support your positions;
- Be prepared to argue;
- Be prepared to be a witness (know the cases).
- Actively participate in class-wide discussions of issues raised in the class;
- Prepare written notes for each assigned problem;
- Review the notes so that you can speak without them;

This weekly preparation should take you, on average, at least six hours per week if not more.



PREPARATION FOR THE FIRST DAY OF CLASS:

You must read Volume 1 before DAY 1

The entirety of this course will surround two fact patterns (criminal and civil). Both fact patterns are contained in your **Problems and Materials in Evidence and Trial Practice** book. You need to **read both the criminal and civil fact patterns in Volume 1 before day 1 of this class as you will be using these fact patterns throughout the course.**



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 class participation, a written Trial Brief, verbal motions in limine, and mock trials.

The breakdown will be:

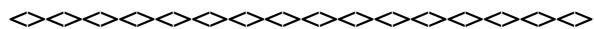
- 50 points for class participation;

- 20 points for the midterm (Trial Brief & Oral Arguments)
- 30 points for the final oral exam (mock trial);

The midterm will be a verbal and written exam. Students will write a trial brief with motions in limine and argue at least one of those issues in class against the opposing party.

The final exam will be a mock trial: Opening through Closing. Witnesses (students from our class or friends of students) will be put on the stand, testimony will be elicited by each party, objections and responses thereto will be made by both parties until there is a ruling.

Reading, research, preparation and advocacy will be expected as students play the varying roles of attorneys presenting and opposing legal positions. Students will be graded on their preparation, knowledge, articulation, presentations and progression in 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:

- Completing assigned readings,
- Writing required research briefs
- Researching and reviewing ancillary text and codes

Outside Preparation: You should anticipate that, on average, preparing your weekly case reading and brief writing assignments will take you a minimum of two hours for every one hour of class time. This is a 3 hour class, so it is anticipated that your preparation for this class will take 6 hours each week. Please make sure to schedule time for this commitment.



SYLLABUS

Evidence Practice:

All Students are expected to have read both the criminal and the civil cases before the first day of class.

Please bring and/or have quick access to your Evidence Codes. You will be reviewing and applying the Evidence Codes, both Federal and California, to the criminal and civil cases.

The goal is to improve your understanding and use of the Evidence Codes in both verbal and written settings.

We will review Evidence Code sections each week and apply them in the class.

The assignment dates *may* change depending on the number of students in the class.

2026 Syllabus

Week 1: Monday January 12

Course Expectations

NO Class 1-19 Holiday

Martin Luther King Day

Week 2: Monday January 26

Openings by Students

Week 3: Monday February 2

Volume 2 class

Week 4: Monday February 9

Volume 2 & Motion pairs assigned

No Class Holiday February 16

President's Day

Motions

Between the students to be heard for next 3 weeks

Week 5: Tuesday February 17 16th replacement class Trial Brief assigned with 402

Week 6: Monday February 23

Responses Due

Week 7: Monday March 2

Responses Due

Week 10: Monday March 9

Break Break Break

Week 8: Monday March 16

Trial Brief's submitted

Week 9: Monday March 23

Responses Due

Week 11: Monday March 30

Argument on Trial Brief's

Week 12: Monday April 6

Physical Evidence Exercise

Week 13: Monday April 13

Assign Final/Motions/Wits

Finals

Week 14 Monday April 20 - Week 15 Monday April 27

Opening/Direct/Cross/Closing

Week 14: Monday April 20

Finals Motions in Limine

Week 15: Monday April 27

Finals Motions in Limine

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. 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."

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.

