

**EVIDENCE**  
**Professor Michael L. Coyne**

<u>RELEVANCE</u> Rules 401 and 402	Any fact that is of consequence -- does it make the proposition more probable with it than it would without the information.
<u>COMPETENCY</u> Rules 601 and 602	Does the witness have the ability to <i>perceive, understand, remember</i> and <i>communicate</i> the event? Does the witness have any special problems, i.e., infancy or insanity, that would impair their understanding of the event? Although not truly a competency issue, are there any privileges that exist which should preclude the testimony. Attorney/client, Priest/Penitent, Doctor/Patient, Marital Privilege and the like.
<u>FOUNDATION</u> Rules 901, 902, 903	A proper basis for admission of the testimony. The evidence must be authenticated and a basis established that shows it is reliable. <i>Expert</i> testimony needs a foundation showing the expert has sufficient <i>education, training, background</i> and <i>experience</i> . Photographs must depict what they purport to depict. Also keep in mind chain of custody concerns, the Best Evidence rule regarding proving the contents of a writing, recording or other document and the accuracy of electronic records.
<u>HEARSAY</u> Rules 801, 803, 804	<i>Any, any, any</i> out of court statement offered to prove the truth of the matter asserted therein except a party's own statement offered against that party.
<u>RULE 403 PROBLEMS</u>	Authorizes the exclusion of relevant evidence on grounds of prejudice, confusion or waste of time. Is the <i>probative value</i> of the evidence substantially <i>outweighed</i> by the danger of <i>unfair prejudice, confusion</i> and delay.