****

**MASSACHUSETTS SCHOOL OF LAW at ANDOVER**

**SYLLABUS FOR EVIDENCE Fall 2021**

**Professor Anthony A. Copani**

**Instructor:** Professor Anthony A. Copani

**Email:** [**copanilaw@icloud.com**](mailto:copanilaw@icloud.com) **or copani@mslaw@edu.com**

**Phone**: 978.681.0800 ext. 123 or 978-686.0010 ext. 15

**Text**: EVIDENCE, Cases, Commentary, and Problems – SKLANSKY

Fifth Edition, Wolters Kluwer

FEDERAL RULES OF EVIDENCE (2021 Ed.)

**Class Times:** Tuesday/Thursday 2:30 p.m. - 3:50 p.m.

Tuesday/Thursday 7:30 p.m. - 8:50 p.m.

**Purpose**  The purpose of this course is to enable students to master the rules

**and Course**  of evidence to perform successfully on the evidence section of

**Description:** of the UBE and to further develop an understanding of the rules to apply same inthe courtroom.

**The topics as set forth in this syllabus are an outline of the order in which the material will be covered during the semester and is subject to modification. The complexity of the material and the ability of the class to grasp the issues may result in devoting more or less class time to a particular topic.**

**Course requirements and grading criteria are set forth at the end of the syllabus.**

**SYLLABUS FOR EVIDENCE**

**Fall 2021**

**Professor Anthony A. Copani**

**ASSIGNMENTS**

**TOPIC – ONE** **OVERVIEW OF CLASS EXPECTATIONS**

Introduction to Evidence Law

Case Book - Read p. 1-13

**TOPIC– TWO** **RELEVANCE – CHAPTER 2**

People v. Adamson – Supreme Ct of California, 1946

27 Cal.2d 478, 165 P.2d 3, aff’d 332 U.S. 46 (1947)

U.S v. Dominguez p. 20

State v. Larson p. 21

U.S. v. Noriega p. 26

**A) RELEVANCE AND PREJUDICE**

State v Poe – S. Ct of Utah, 1968

441 P.2d 512, appeal after remand, 471 P.2d 870

U.S. v. McRae p. 29

U.S. v. Mehanna p. 30

**B) SUFFICENCY AND CIRCUMSTANTAL EVIDENCE**

State v. Brewer – S. Ct of Maine, 1985

505 A.2d 774

**C) PROBABILITY EVIDENCE**

Smith v. Rapid Transit, Inc.- S. Ct of Massachusetts, 1945

58 N.E. 2d 754

**TOPIC – THREE EXAMINATION OF WITNESSES**

COMPETNECY OF WITNESSES

LECTURE

DIRECT AND CROSS EXAMINATION

LECTURE

**REFRESHING RECOLLETION**

U.S. V. Riccardi p. 170

**TOPIC – FOUR** **CHAPTER 7**

**IMPEACHMENT AND REHABILITATION**

Case Book – Read p. 387 to 390

**FIVE MODES OF IMPEACHMENT**

**1) BIAS AND INTERST**

U.S. v. Abel p. 420

**2) BAD CHARACTER**

**a) Prior Criminal Convictions**

U.S. v. Wong p. 395

U.S. v. Estrada p. 397

U.S. v. Amaechi p. 401

U.S. v. Sanders p. 402

U.S. v. Oaxaca p. 404

U.S. v. Hernandez p. 405

Luce v. U.S. p. 407

Ohler v. U.S. p. 409

**b) Prior Bad Acts**

U.S. v. Rosa p. 393

U.S. v. White p. 393

U.S v. Whitmore – 359 F.3d 609 (D.C. Cir. 3004)

**c) Reputation and Opinion of Character**

State v. Ternan – S. Ct. of Washington, 1949

33 Wash.2d 584, 203 P.2d 342.

U.S. v. Lollar p. 391

**3) PRIOR INCONSISTENT STATEMENTS**

U.S. v. Lebel p. 411

U.S. v. Truman p. 412

U.S v. Ince p. 414

U.S. v. Webster p. 416

**4) CONTADICTION**

Simmons v. Pinkerton p. 427

**5) TESTIMONIAL FACULTIES**

Ability to Observe, Remember and Relate

LECTURE

**6) REHABILITATION**

U.S. v. Lindemann p. 434

Beard v. Mitchell p. 437

U.S. v. Drury p. 439

U.S. v. Murray p. 439

**TOPIC – FIVE** **CHAPTER 3**

**HEARSAY RULE AND RATIONALE**

Leake v. Hagert p. 48

Central of Georgia v. Reeves – S. Ct. of Alabama

257 So.2d 839 (1972)

Hickey v. Settlemier – S. Ct of Oregon, 1993

864 P.2d 372

Banks v. State – Ct. of Appeals of Maryland, 1992

608 A.2d 1249

U.S. v. Zenni, p. 65

Sollars v. State – S. Ct. of Nevada, 1957

316 P.2d 917

Betts v. Betts – Ct. of Appeals of Washington, 1970

473 P.2d 403

Silver v. N.Y. Cent R. Co. – S. Judicial Ct. of MA, 1952

329 Mass. 14

City of Webster Groves v. Quick – Ct. of Appeals, of Missouri 323 S.W.2d 386, 1959

**A) PRIOR STATEMENTS BY WITNESSES**

Rowe v. Farmers Ins. – S. Ct. of Missouri, 1985

699 S.W.2d 423

U.S. v. Owens p. 97

**B) ADMISSIONS BY PARTY OPPONENT**

U.S. v. McGee p. 102

U.S. v. Phelps p. 103

Reed v. McCord p. 103

**C) ADOPTIVE ADMISSIONS**

U.S. V. Fortes p. 109

Moss v. Commonwealth p. 112

**D) AUTHORIZED ADMISSIONS**

Hanson v. Wallerp. 113

**E) VICARIOUS – AGENT & EMPLOYEE**

Mahlandt v. Wild Canid p. 115

**F) CO-CONSPIRATOR ADMISSIONS**

Bourjaily v. U.S. p. 121

Bruton v. U.S. p. 127

**TOPIC – SIX EXCEPTIONS TO THE HEARSAY RULE**

**DECLARATIONS AGAINST INTERST**

FRE 804 – (b) (3)

U.S. v. Katsougrakis – 715F.2d 769

U.S. v. Duran Samaniego p. 234

U.S. v. Jackson p. 236

**TOPIC – SEVEN EXCITED UTERANCE/PRESENT SENSE**

FRE 803 – (1) (2)

U.S. v. Obayagbona p. 139

People v. Cummings p. 141

**TOPIC -EIGHT THEN EXISTING MENTAL, EMOTIONAL**

**OR PHYSICAL CONDITION**

FRE 803 – (3)

U.S. Harris p. 146

Mutual Life v. Hillmon p. 148

Shepard v. U.S. p. 153

U.S. v. Houlihan p. 156

U.S. v. Annunziato – U.S. Ct. of Appeals, Second Cir, 1961

293 F.2d 373

**TOPIC – NINE** **STATEMENTS MADE FOR MEDICAL**

**DIAGNOSIS OR TREATMENT**

FRE 803 - (4)

Rock v. Huffco Gas p. 160

Ward v. State p. 162

**TOPIC – TEN** **BUSINESS RECORDS**

FRE 803 – (6) (7) (8)

State v. Acquisto p. 175

Keough v. Commissioner p. 178

Palmer v. Hoffman p. 180

Wilson v. Zapata p. 185

U.S. v. Gentry p. 186

Beech Aircraft v. Rainey p. 189

**TOPIC – ELEVEN** **DYING DECLARATIONS**

FRE 804 – (b) (2)

Sheppard v. U.S. p. 226

**TOPIC – TWELVE** **HEARSAY AND CONFRONTATION**

Crawford v. Washington p. 75

Davis v. Washington – 126 S. Ct. 1354 (2004)

Giles v. California p. 238

Melendez-Diaz v. MA p. 194

Ohio v. Clark p. 83

**TOPIC – THIRTEEN** **FORMER TESTIMONY**

FRE 804 (b) (1)

U.S. v. Bollin p. 215

Kirk v. Raymark p. 216

**TOPIC – FOURTEEN** **FORFEITURE BY WRONGDOING;**

**RESIDUAL EXCEPTION**

FRE 804 – (6), FRE - 807

See Giles v. California above

U.S. v. Slatten p. 245

U.S. v. Boyce p. 247

**TOPIC – FIFTEEN** **CHAPTER 4**

**CHARACTER EVIDENCE**

**BASIC RULE**

FRE 404 (a)

Read material and cases p. 267 to 275

Read material and cases – Pages 267 to 275

**METHODS OF PROOF**

FRE 405, 803 (21)

Read material and cases – Pages 276 to 286

**OTHER USES OF SPECIFIC CONDUCT**

FRE 404 (b)

Read material and cases – Pages 287 to 301

**CHARACTER AND HABIT**

FRE 406

Read material and cases – Pages 307 to 311

**SEXUAL ASSAULT AND CHILD MOLESTATION**

FRE 412

Read material and cases – Pages 312 to 328

**TOPIC – SIXTEEN** **CHAPTER ELEVEN**

**PHYSICAL EVIDENCE**

**A) AUTHENTICATION OF DOCUMENTS**

**AND OBJECTS -** FRE 901-903

Anderson v. Berg – S. Ct of Kansas, 1969

451 P.2d 248

Keegan v. Green Giant Co. – SJC of Maine, 1954

110 A.2d 599

**B) VOICES / WRITINGS**

U.S. v. Sliker – US Ct of Appeals, Second Circuit, 1984

751F.2d 477, cert. denied, 470 U.S. 1058

FRE – 803 (16)

LECTURE

**B) BEST EVIDENCE RULE**

Read material and cases – Pages 719 to 726

**C) DEMONSTRATIVE EVIDENCE**

Read material and cases – Pages 739 to 744

**TOPIC – SEVENTEEN** **CHAPTER NINE**

**OPINIONS, EXPERTS AND SCIENTIFIC EVIDENCE**

**A) LAY OPINIONS**

FRE 701

Read material and cases - Pages 493 to 500

**B) SUBJECTS AND SCOPE OF EXPERT TESTIMONY**

FRE 702 – 706

Read material and cases – Pages 508 to 515

**C) SPECIAL REQUIREENTS FOR EXPERTS**

Read material and cases – Pages 517 to 538

**D) CURRENT CONTROVERSIES**

Read material and case – Pages 544 to 550

**E) TRIAL BY MATHAMATICS**

Read material and cases – Pages 566 to 572

**G) LEARNED TREATIES**

FRE – 803 (18)

**TOPIC – EIGHTEEN** **CHAPTER FIVE**

**FORBIDDEN REFERNCES – LEGAL RELEVANCY**

**A) SUBSEQUENT REMEDIAL MEASURES**

Clausen v. Storage Tank p. 336

Diel v. Blaw-Knox p. 339

**B) SETTLEMENT EFFORTS**

FRE 408-409

U.S. v. Davis p. 343

U.S. v. Mergen p. 355

**C) MEDICAL PAYMENTS AND INSURANCE**

FRE 409, 411

Read material and cases – Pages 358 to 361

**TOPIC – NINETEEN**  **PRIVILEGES, JUDICIAL NOTICE AND BURDEN OF PROOF**

LECTURE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

It is required that students be prepared for class and have read and briefed the assigned cases.

If a student is not prepared, it is that student’s responsibility to notify the Professor prior to the commencement of the class. At that time a determination will be made as to whether the lack of preparation will be treated as an excused or unexcused absence.

Attendance will be taken at each class. Students who have more than three unexcused absences will have their final letter grade reduced by a “minus”. For example, a grade of “C+” will be reduced to a “C”.

There will be a Midterm Exam and quizzes throughout the semester, the weight of which will be discussed in class.

After the administration of the Midterm or Final Exam, if a student desires to review their grade/exam with the Professor, it shall be a prerequisite of the meeting that the student produce his/her briefs and course outlines to insure said meeting is productive in identifying those areas of difficulty.