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**MASSACHUSETTS SCHOOL OF LAW at ANDOVER**

**SYLLABUS FOR EVIDENCE Fall 2023**

**Professor Anthony A. Copani**

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

 Fifth Edition, Wolters Kluwer

FEDERAL RULES OF EVIDENCE (2022 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.**

**The Syllabus includes cases that are not contained in the Case Book, such as, People v. Adamson under Topic Two. *I will provide copies of these cases at the beginning of the semester.***

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

**SYLLABUS FOR EVIDENCE**

**Fall 2023**

**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

 **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. Noriega p. 26

 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

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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.