



TEXAS SOUTHERN UNIVERSITY

Course Name Evidence	Course 600	Term and Year: Fall 2021	
Class Time	Monday, Tuesday and Thursday – 1:00-1:50 pm		
Class Location	Room 203		
Professor	Ana M. Otero		
Office Hours	Monday 11-1:00 pm; Tuesday 12:00-1:00 pm and 2:00 3:00pm; Thursday 12:00-1:00 pm and 2:00-3:00 pm. If Covid conditions mandate it, I will conduct virtual office hours through Blackboard and Zoom.		
Professor Email	ana.otero@tmslaw.tsu.edu	Instructor Phone	713.313.7351
Preferred Methods of Contact	Email / Blackboard /TWEN	TA Name & Email	Andre Villarreal a.villarreal2638@student.tsu.edu
Blackboard Help	For issues with Blackboard, please contact TSU OIT.		

Course Description	
Learning Objectives	<p>The evidence class involves aspects of theory and practice. The evidence rules are designed to be used, not studied in the abstract. Most of the class time will be spent providing students with the opportunity to practice using the rules to accomplish an adversarial goal. These exercises will provide students with a solid background in the basic trial rules and their complex application.</p> <p>As a result of taking this course, students will be able to do the following: 1) Demonstrate an understanding of the litigation process, and the role the evidence rules play in that process; 2) Demonstrate a working knowledge of the rules of evidence and the underlying rationale for each rule; 3) Analyze and apply the rules on the admissibility of evidence at trial and the role of the judiciary in both civil and criminal trials; 4) Compare and contrast the historical development of the rules of evidence and their effect on the modern rules of evidence; and, 5) Develop critical thinking and improve verbal and written communication skills through the identification, interpretation, discussion and briefing (written summary) of a variety of evidentiary issues from actual criminal and civil court cases.</p> <p>Objectives and competencies for this course are listed in the weekly assignments below.</p>

Material	
Textbooks	<p>1. Arthur Best, Evidence, Practice, Problems, and Rules. Wolters Kluwer Law & Business, (3rd Edition)</p> <p>2. Federal Rules of Evidence – Latest Edition. Best has a companion rule book, but there are many sources available. I recommend that you select a rule book that contains the Advisory Committee Notes.</p>
Suggested Readings	<p>Steven Goode, Olin Guy Wellborn III, <i>Courtroom Evidence Handbook</i>, Student Edition (West)(Latest edition). This rulebook contains not only the Federal Rules of Evidence, but annotations to the rules as well. The annotations makes the rules easier to understand. If you decide to purchase this book, then you do not need to get any other rule book.</p>
Required Technology	<p>Personal computers will be allowed in the classroom and some quizzes may be offered on Blackboard. In that event, I will use the RESPONDUS LOCKDOWN BROWSER (RLDB) that must be downloaded to your computer. Tablets and Ipads are not compatible with the RLDB. More instruction will be provided about this later.</p>

Grading	
<p>There will be a number of graded open-book quizzes (only rule book allowed) throughout the term, a midterm, and a <u>cumulative comprehensive</u> final examination including the Federal Rules of Evidence. The final letter grade is based on the following:</p>	
Quizzes (Will drop lowest grade)	25%
Midterm	25%
Essay Exams	20%
Final (Cumulative)	25%
Class participation (Includes TWEN quizzes)	5%
<p><u>TWEN Quizzes:</u> There will be several practice quizzes posted on TWEN during the semester. These will be announced in class and by email. TWEN quizzes are mandatory. These quizzes are not graded, but points earned count towards the 5% class participation portion of the grade.</p>	
<p><u>Graded Quizzes:</u> After every major topic, there will be a quiz. Quizzes are composed of multiple choice and true/false questions. Some of the quizzes will be open-rule book</p>	

Midterm: Midterm will be composed of multiple choice and true/false questions.

Essays: There will be at least two-timed graded essays. The turnaround for essays will be within a week, and your answers will contain extensive feedback. I will also provide you with a grading rubric or a sample answer which will be reviewed in class.

The purpose of the essays is to test your understanding of the legal concepts, and hone your legal analysis and communication skills.

It is my goal in this class to awaken your mind so that it becomes keen and inquiring; to give you an opportunity to become not just a good legal writer, but a skillful writer. Like any other craft, legal writing requires practice, love, and attention. Perfecting this craft is a life-long pursuit, but it is my hope that through various exercises we will do in this class, you will begin the process.

Final Exam: The final exam is cumulative and it is composed of 100 multiple choice questions. The final exam is closed book.

Course Outline

Overview /
Course
Responsibilities


I will use Blackboard, TWEN, and Zoom. To use TWEN, you need a WESTLAW password and internet access. Whenever you access TWEN, make sure to have the technical support number available so you can contact them with any problems you may have. That number is 1.800.486.4876.

Announcements will be sent either through TWEN or Blackboard. Checking your email is an integral part of this class, and it's my key method of communication. Please act accordingly.


Reading Assignments

Week 1

8-16 and 8-17

- Day 1 and 2 - Introduction to Evidence law. 
Review Article I: FRE 101-106.
- Overview of evidence law covering preliminary concepts.

8-19

- Day 3 - Chapter 1 – Relevance: A. Introduction to Evidence Law, pp. 1-2
 -  Review of Chapter #1 exercise – Relevance.

After the PPT presentation and this section of Chapter 1, you will be able to:

- 1) Understand the several well-established meanings of the term “evidence,” and the various types of evidence used during the litigation process.
- 2) Understand pretrial practice and procedure including the seven stages of litigation: investigative, pleading, discovery, pre-trial, trial, post-trial, and appeal.
- 3) Understand the role played by evidence law in each of these stages.
- 4) Understand the different responsibilities of the judge, the attorneys, and the jury during a trial, and how the evidence rules play a significant role in the division of these duties.
- 5) **You will be able to answer the following questions:**
 - a. How do the rules of evidence affect the conduct of a lawsuit?
 - b. What role does evidence play at trial?
 - c. How is the judge the “gatekeeper” of the evidence admitted at trial?
 - d. How can attorneys satisfy their dual roles of representing their clients zealously and serving as officers of the court?
 - e. How do attorneys preserve error for appeal?
 - f. Why is the jury described as the “judge of the facts?”
 - g. Is it important for jurors to evaluate the credibility of evidence?

Week 2

8-23 and 8-24

Days 1 and 2

- **Continue Chapter 1 – B. Introduction to Relevance, pp. 2-44. FRE 104, 401-403.**

Case Assignment

Supreme Pork Inc. v. Master Blaster, p. 6.

Kaechele v. Kenyon Oil, p. 12.

United States v. Dillon, p. 17.

Lovick v. Wil-Rich, P. 20.

Spino v. John S. Tilley Ladder, p. 23.

Aloi v. Union Pacific Railroad, p. 28.


Old Chief v. United States, p. 37.

- **After Chapter 1, you will be able to compare prejudicial evidence and unfairly prejudicial evidence, and answer the following questions:**
 1. Why is it important to ask, “To what is the evidence relevant?” and not just, “Is the evidence relevant?”
 2. What do inferences have to do with relevance?
 3. What do relationships have to do with relevance?

4. What does probative mean in the definition of relevance?
5. What does fact or consequence mean in the definition of relevance?
6. How does the probative prong of the relevance test relate to the fact of consequence prong?
7. How difficult is it for evidence to meet the threshold test of relevance?
8. Why is some evidence conditionally relevant? At what point in time during a party's case can proof of a conditionally relevant fact be offered during trial?
9. What is the test to determine unfair prejudice exists?
10. How many steps are there in the test of unfairly prejudicial evidence?
11. What do certain types of probability evidence, excessively violent evidence, similar acts or occurrences, and scientific tests have in common?
12. What is the significance of a limiting instruction?

8-26

**Chapter 2 – Social Policy Relevancy Rules, pp. 45-72.
FRE 407, 408, 409, 410, 411.**

-  Review of Chapter #2 exercise – Social Policy Relevancy Rules prior to discussing the cases. **Please read the rules and answer the questions in preparation for class.**

Case Assignment

Cyr v. J.I Case Co. p. 47.

Bethel v. Peters, p. 52.

Flaminio v. Honda Motor Co. p. 56.

- After Chapter 2, you will be able to answer the following questions:**
 - 1a. Under what circumstances is evidence of “subsequent remedial measures”- that is, of measures taken after an injury or harm occurs that would have made the injury or harm less likely – admissible?
 - 1b. What are the exceptions? See R. 407.
 - 2a. What evidence is admissible under R. 408? What is the underlying policy?
 - 2b. Even if the evidence is offered to prove liability for or invalidity of a claim or its amount, which would ordinarily make it inadmissible, does the evidence consist of conduct or statements made in compromise negotiations in a criminal case in which the negotiations related to the claim of a public office or agency in the exercise of regulatory, investigative, or enforcement authority? If yes, contrary to the usual rule, the evidence is admissible.
 - 3a. Is evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury admissible? See R. 409.

- 3b. If yes, is it offered to prove liability for injury?
 - 4. Is evidence of the following offered in any civil or criminal proceeding admissible? See R. 410.
 - 1. a plea of guilty later withdrawn?
 - 2. a plea of nolo contendere (that is, “no contest,” meaning that the defendant agrees to be sentenced for it)?
 - 3. any statement made in the course of any proceedings under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the foregoing pleas?
 - 4. any statement made in the course of plea discussions with an attorney for the prosecuting authority which does not result in a plea of guilty or which results in a plea of guilty later withdrawn?
 - 5a. Is evidence that a person was or was not insured against liability admissible? See R. 411.
 - 5b. If yes, is it offered on the issue whether the person acted negligently or otherwise wrongfully, in which case it is not admissible, or is it instead offered for another purpose, such as proof of agency, ownership, or control, bias or prejudice of a witness? Does it matter? See R. 411.
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Week 3

8-30

- **Day 1 –Introduction to Hearsay: An Overview.** 

8-31

- **Days 2 and 3 - Begin Chapter 5 – Hearsay: Foundations of the Doctrine, pp.159-198.**

9-2

Case Assignment

Vincelette v. Metropolitan Insurance, p. 163.

State v. Patterson, p. 166.

Schaeffer v. State, p. 169.


Biegas v. Quickway Carriers, p. 172

- **After Chapter 5, you will be able to answer the following questions:**
 - 1) What are the two types of arguments supporting the admissibility of out-of-court statements?
 - 2) What are the steps to determine whether a statement constitutes hearsay?
 - 3) How does the hearsay rule protect the right to cross-examination?
 - 4) What are the four hearsay dangers?
 - 5) Can animals and machines be declarants?

- 6) What is a statement for the purpose of the hearsay rule?
 - a. What are implied assertions?
- 7) Can I avoid the hearsay rule by asking witnesses to paraphrase out-of-court statements?
- 8) Can witnesses' own out-of-court statements constitute hearsay?
- 9) What is the status of hearsay statements prior to trial?
- 10) What are testimonial hearsay assertions?
- 11) Who determines what a statement is offered to prove?
- 12) What is an "assertion first" approach to case planning?
- 13) How is admissibility determined when a statement is offered for a non-hearsay rule?
- 14). What is the meaning of the following common law non-hearsay uses?
 - a. Assertion offered as evidence of the speaker's state of mind.
 - b. Assertion offered as evidence of the state of mind of person who heard the assertion.
 - c. Assertion offered as a "verbal act" or "words of independent legal significance."
 - d. Assertion offered to contradict (impeach) in-court testimony.
 - e. Assertion offered to provide context and meaning.

Week 4

September 6, Labor Day – No class.

- **Begin Chapter 6, - Opponents's Statements, pp. 199-226.**
- **Overview of FRE 801(d)(2).** 

9-7 and 9-9



Review Chapter #6 Exercise prior to case discussion. **Please read the rules and answer the questions in preparation for class.**

Case Assignment

United States v. Sprick, p. 201.

Shields v. Reddo, p. 203.

Barnett v. Hidalgo, p. 215.

B & K Rentals v. Universal, p. 217.

State v. Cornell, p. 221.



Week 5

9-13

- **Day 1 – Complete Chapter 6, Opponents' Statements.**
- **After Chapter 6, you will be able to answer the following questions:**
 1. Is a party admission an out-of-court statement that admits to wrongdoing?
 2. Can parties offer their own out-of-court statements into evidence as party admissions?

3. Can a non-party's out-of-court statement qualify as a party's admission?
4. What are the foundational requirements for showing that out-of-court statements constitute the following kinds of party admissions?
 - a. Straight admissions.
 - b. Adoptive admissions.
 - c. Authorized admissions.
 - d. Employee admissions.
 - e. Co-conspirator admissions.
5. Can a hearsay assertion itself support a statement's admissibility as a vicarious admission?
6. By what standard does a judge decide whether the foundational requirements for a party admission have been satisfied?

9-14 and 9-15

- **Days 2 and 3 – Overview of FRE 801(d)(1).** 
-  **Review Chapter #7 Exercise prior to case discussion. Please read the rules and answer the questions in preparation for class.**
- **Begin Chapter 7- Witnesses' Out-Of-Court Statements, pp. 227- 257.**

Case Assignment


United States v. Gajo, p. 231.
 United States v. Day, p. 234.
 Tome v. United States, p. 239
 United States v. Lewis, p. 245.
 United States v. Shaw, p. 249.

➤ **After Chapter 7, you will be able to answer the following questions:**

1. What does it mean that a statement may be used substantively? When can Statements be used in this manner?
2. What are the three kinds of declarant-witness's prior statements presented in FRE 801(d)(1)?
3. What foundational requirements are necessary for the following types of out-of-court statements to be admissible for the truth of their contents?
 - a. The out-of-court statement conflicts with a witness' courtroom testimony.
 - b. The out-of-court statement is consistent with a witness' courtroom testimony.
 - c. The out-of-court statement constitutes an identification made by a testifying witness.
4. Are the statements covered under FRE 801(d)(1) admissible if the declarant does not testify at trial and is not subject to cross examination?

Week 6

9-20 and 9-21

- **Days 1 and 2 – Overview of Hearsay Exceptions. FRE 803.** 
- **Review Chapter #8 Exercise and do problems on your own.** We will not discuss in class.

- **Day 3 - Chapter 8, Hearsay Exceptions: Spontaneous and Personal**

9-23

Case Assignment

Fischer v. State, p. 261.
Pressey v. State, p. 266.
State v. Flores, p. 270.
Graure v. United State, p. 272.
Stoll v. State, p. 276.
State v. James, p. 285.
Camm v. State, p. 289.



After Chapter 8, you will be able to answer the following questions:

1. Does admissibility of hearsay under Rule 803 depend on a declarant's ability to testify?
2. Are the trustworthiness considerations underlying each Rule 803 hearsay exception the same?
3. How does the permitted gap between event and statement differ among the exceptions for present sense impressions, excited utterances and past recollection recorded?
4. For an excited utterance to be admissible, does it have to be made spontaneously?
5. If a hearsay statement satisfies any one of the Rule 803 foundational requirements, is it admissible as a matter of law?
6. Does the admissibility of an excited utterance require that an event be both objectively and subjectively startling?
7. For a statement to qualify under the medical hearsay exception, must be made to a treating physician? Can it qualify for admission if it is made to non-physicians?
8. When might a statement be admissible under the medical hearsay exception, but not under the "state of mind" exception?
9. How does the "state of mind" hearsay exception compare to non-hearsay uses of statements as circumstantial evidence of state of mind?
10. Does the "state of mind" exception make admissible an assertion of the fact giving rise to the state of mind?

Week 7
9-27

- **Day 1 – Finalize Chapter 8.**

9-28 and 9-30

- **Days 2 and 3 – Begin Chapter 9 - Hearsay Exceptions: Recorded Statements, p. 309-358.**
- **Chapter 9 Exercise – Do on your own. We will not cover it in class.**

Read only the assigned cases and pertinent notes.

Case Assignment

United States v. Jones, p. 311.
State v. Taylor, p. 314.
United States v. Dazey, p. 318.
Germain v. State, p. 322.

► **After Chapter 9, you will be able to answer the following questions:**

- What types of statements are covered by the hearsay exception for recorded recollection?
- What is the difference between recorded recollection and present recollection recorded?
- What are three common ways of obtaining evidence from a forgetful witness? Which of these depend on use of a document prepared or adopted by the forgetful witness?
- Does the business records exception apply only to the records of for-profit entities?
- What is the role of a “sponsoring witness” when a party seeks to offer a business or official record into evidence?
- Do the business record and public record exceptions both require that a document be prepared in the regular course of operations?
- Are police reports admissible against criminal defendants under the public records exception?
- What predicate must be laid for the business records exception to apply?
- What predicate must be laid for the public records exception to apply?

Week 8

10-4 Day 1 – FRE 804. Overview. 

Begin Chapter 10, Hearsay: Unavailability Required Exceptions, pp. 359-382.

10-5 and 10-6

Case Assignment

O'Banion v. Owens, p. 361.

Grant v. State, p. 365

State v. Paredes, p. 369.

➤ After Chapter 10, you will be able to answer the following questions:

1. Why did the drafters of the Federal Rules of Evidence consider the Rule 804 hearsay exceptions to be “second tier” exceptions?
2. Can a person be physically present in court, yet be considered unavailable under Rule 804?
3. Can a witness who improperly refuses to testify be considered unavailable under Rule 804?
4. Can failure of recollection render a witness unavailable under Rule 804?
5. Is a person who breaks a promise to show up for trial unavailable under Rule 804?
6. Does deposition testimony qualify as former testimony? What if the deposition testimony is given in one case and offered into evidence in another?
7. Can testimony that a witness has previously given be admissible against a party who neither offered the testimony initially nor had an opportunity to cross-examine the witness who provided it?
8. In what types of cases are dying declarations admissible?
9. Can a dying declaration be admissible even if the declarant is alive?
10. Can a statement qualify as against interest if it was initially self-serving but later turns out to be against the declarant's interest?
11. Does a self-serving statement qualify as against a declarant's interest if it is part of a larger set of statements that taken as a whole are against the declarant's interest?
12. In what way do the foundational requirements for statements against a declarant's penal interest differ from the requirements for statements against other interests?

Week 9

10-11

- Day 1 – Overview of Character Evidence. 

10-12 and 10-14

- Days 2 and 3 - Chapter 3 - Proof of Character, pp. 73-125.

-  **Review Chapter #3 Exercise prior to discussing the cases.**
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Week 10

10-18 and 10-19

Days 1 and 2

Case Assignment

Boyd v. United States, p. 76.

John A. Russell v. Bohlig, p. 79.

City of Kennewick v. Day, p. 85.

State v. Gowan, p. 89.

Commonwealth v. Adjutant, p. 93.

United States v. Taken Alive, p. 97.

State v. Foxhoven, p. 102



United States v. Queen, p. 107.

➤ **After Chapter 3, you will be able to answer the following questions:**

1. Is the testimony being offered “character” evidence?
2. If yes, what is the purpose for which evidence of a person’s character is being offered?
 - a. Is the person’s character itself a material fact?
 - b. Is the person’s character offered to prove “action in conformity therewith,” that is, how the person behaved on a specified occasion (“act propensity”)?
 - c. Is the person’s character offered to prove that person’s mental state (“mental propensity”)?
 - d. Is the person’s character offered to prove or disprove the person’s credibility as a witness? If so, is “intrinsic” or “extrinsic” evidence of character being offered, and what is the difference?
3. Do any of the exceptions to the general bar on act propensity evidence apply?
4. Is this a homicide or sexual assault case, to which special character rules apply?
5. What type of evidence of a person’s character is being offered?
 - a. The person’s reputation?
 - b. The opinion of a witness who knows the person?
 - c. Specific acts in which the person has previously engaged?
6. Is evidence that looks like character evidence but is not – such as some uses of prior bad acts – being offered and, if so, for what purposes?

7. What distinguishes “character” evidence from “habit” evidence?
8. What distinguishes “character evidence” from motive evidence?
9. Why does the Case Library to this chapter present *Michelson v. United States*?

10-20

- **Day 1 – Habit Evidence – FRE 406** 
- **No readings from the casebook.**
-  **Chapter 4 Exercise. Will discuss practice problems after PPT.**



➤ **After Chapter 4, you will be able to answer the following questions:**

1. What is habit evidence?
 2. Under what circumstances is habit evidence admissible?
-

Week 11

10-25 and 10-26

Days 1 and 2

- **Overview of Impeachment – FRE 607-611.** 
-  **Chapter 12 Exercise. Will discuss practice problems after PPT and prior to case discussion.**
- **Day 3 - Chapter 12, Impeachment, pp. 447-512.**

10-28

Case Assignment

State v. Caldwell, p. 450.
People v. Segovia, p. 456.
State v. Guenther, p. 461.
State v. Hardy, p. 470.
State v. Williams, p. 473.

➤ **After Chapter 12, you will be able to answer the following questions:**

1. Is there a witness testifying at a hearing or proceeding before, during, or after the trial?
2. Is the witness under oath and subject to cross-examination?
3. Is the witness offering evidence going to the background of the case, an element of the claim, defense, or cause of action, or the impeachment of another witness?
4. Is the witness on direct, cross, redirect, or re-cross examination?



5. If this is the proponent's witness, what objections to the witness' testimony can be anticipated?
 6. If the witness is being impeached, is the impeachment intrinsic (from the witness' mouth) or extrinsic (by offering other evidence or another witness)?
 7. If the impeachment is intrinsic, is it in a permissible form?
 8. If the impeachment is extrinsic, does it satisfy the collateral issue?
-

Week 12

11-1

- **Day 1 – Finalize Chapter 12 and related cases.**

11-2 and 11-3

- **Days 2 and 3– Chapter 13. Overview of Witnesses – FRE 601-606.** 
-  **Chapter 13 Exercise. Will discuss practice problems after PPT and prior to cases.**



➤ **After Chapter 13, you will be able to answer the following questions:**

1. When is a witness competent to testify?
 2. Why does Rule 602 prohibit testimony by a witness who lacks personal knowledge?
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Week 13

11-8 and 11-9

Days 1 and 2

- **Chapter 14, Opinions – FRE 701-706.** 
-  **Chapter 14 Exercise. Will discuss practice problems after PPT and prior to cases.**

11-11

Case assigned: Daubert v. Merrell Dow, P. 556

➤ **After review of FRE 701-706, you will be able to answer the following questions:**

1. What is the difference between expert and lay opinion?
2. To what relevant issues does any proffered expert testimony relate?

3. If the opinion testimony is “expert,” is the expert “qualified” by knowledge, skill, experience, training, or education to testify in the form of an opinion or otherwise?
4. If the expert is so qualified, does the expert’s testimony involve: a) scientific knowledge; b) technical knowledge; c) other specialized knowledge? Does this matter?
5. Is the expert opinion based on:
 - a. a hypothetical question?
 - b. observations personally made by the expert in the courtroom?
 - c. observations personally made by the expert outside the courtroom?
 - d. information provided to the expert prior to trial?
6. Does the expert offer his or her opinion to a “reasonable degree of professional certainty”? Does this matter?
7. What is the likely impact of the expert’s opinion on the jury? For example will the testimony “overawe” the jury or otherwise lead it to be unfairly prejudiced, misled, or likely to give the testimony undue weight?
8. Has the expert testified to an “ultimate issue” by stating an opinion or inference as to whether a criminal defendant did or did not have a mental state or condition constituting an element of a charged crime or offense?
9. As to the major premise of the expert syllogism, have the principles and methods (techniques) used by the expert shown to be both relevant and “reliable,” with reliability shown by weighing a wide range of pertinent factors including:
 - a. Whether the principles and techniques are testable and have been tested (that is, has a hypothesis been generated, and have adequate efforts been made to falsify the hypothesis, with no such falsification yet having been achieved)?
 - b. Have the theory and technique been subjected to:
 1. peer review?
 2. publication?
 - c. What is the technique’s known or potential error rate?
 - d. Has the principle or technique attained “widespread acceptance”?
 - e. Are there standards controlling the technique’s operation?
10. Has cross-examination of the expert inquired into such matters as:
 - a. The non-existence of any particular basis on which the expert relied that might, if shown, alter the opinion?
 - b. The existence of contrary or additional bases that would alter the expert’s opinion.
 - c. The materials the expert reviewed or failed to review?
 - d. The tests or other investigations the expert conducted or failed to conduct?


- e. Any financial compensation the witness received for giving advice and testimony?
- f. The contradiction between his assertions and those by others in “learned treatises”? exception to the hearsay rule?

Lay and expert opinion?

- 11. Is the testimony being sought “lay” or “expert”?
 - 12. If the testimony involves “lay opinion” is the opinion:
 - a. “rationally based” on the perception of the witness and
 - b. helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue?
 - c. Does it express a “collective fact” or a “skilled lay observer’s opinion”?
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Week 14

11-15 and 11-16

- **Authentication and the Original Writing Rule.** 
FRE 901, 902, 903, 1001-1008

➤ **After reviewing the FRE, you will be able to answer the following questions:**

- 1. Is the thing to be admitted into evidence what it purports to be?
- 2. Have all of the “magic” foundation questions for authentication been asked of the witness in a recognizable form?
- 3. Does the so-called best evidence rule apply to the case?
- 4. To determine the applicability of the best evidence rule, is a party proving the contents of a writing that is important to the case?
- 5. If the best evidence rule applies, is there an adequate alternative to the original writing that can serve as a substitute?

11-18

- **Privileges, Judicial Notice, and Burdens will be covered via video tutorials.**

11-22 and 11-23 Review.

LAST DAY OF CLASS: TUESDAY, NOVEMBER 23, 2021



Essential Policies:	
My Teaching Philosophy	<p>My teaching philosophy has evolved during my thirty years of teaching in the legal profession. It is partly grounded on the words of the Lebanese poet, Khalil Gibran: <i>“The teacher who is indeed wise does not bid you to enter the house of his wisdom but rather leads you to the threshold of your mind.”</i></p> <p>I am thoughtful and passionate about my teaching. I teach by example, so I strive to be diligently prepared and to challenge students to excel. I am mindful that each student learns differently, so my teaching style evolves to meet the needs of my students. I believe that repetition and reinforcement of the legal concepts are pivotal in learning the law, so I provide different teaching tools to accomplish this goal. Above all, I strive to ensure that students fully understand the foundational principles so that their learning is meaningful and effective.</p> <p>As I reflect on my years of teaching, I find that my mission is rooted on three principles: to spark enthusiasm for learning; to create a positive learning environment; and, to infuse professionalism and compassion in my students.</p> <p>Through the years, I have learned much from my students. I am humbled by their determination to succeed and their dedication to the task. I care about my students, and I believe that all of them can become successful lawyers. But being a lawyer is a huge responsibility and I strive to ensure that my students will be ethical and competent practitioners.</p>
Computers in the Classroom	<p>You are welcome to use a laptop or tablet in this class so long as it contributes to your learning. This class, once again, is discussion-based. Thus, I expect you to listen to one another and participate in classroom discussions actively. If you cannot contribute to the discussion or are otherwise distracted by your computer, cell phone, or table, I will ask that you refrain from using it in class. There will be some class sessions where we will use technology together, and in those instances, all students should make arrangements to bring a laptop or tablet to class. If you have any questions or concerns, please be in touch with me</p>
Attendance Policy	<p>You must be at your desk when class begins. Please refrain from coming to class late or departing during class instruction. It can be very disruptive. Please advise me before class if there is an emergency.</p>

Professionalism	Students are expected to demonstrate professionalism by adhering to the course policies and procedures explained in this syllabus. In keeping with the professional school environment, students should remember to respect their fellow classmates and the Professor at all times.
Accommodations Policy	<p><u>Accommodations/Excused from Graded Quizzes or Tests, etc.</u></p> <p>An “accommodation” is defined for these purposes as any student request for deviation from the time, date, or circumstances under which scheduled graded assignments are administered. Students must apply to and be granted WRITTEN accommodation by the DEAN’S OFFICE if he/she will not be in attendance for any graded assignment or test (e.g., graded quiz and midterm/final exams). Once granted, the professor must receive official confirmation from the DEAN’S OFFICE of any ALTERNATIVE DATES or accommodated changes that have been granted to the student. All requests for ACCOMMODATIONS must be handled by the Dean’s office rather than by the professor. ORAL CONVERSATIONS made with EITHER the professor or the DEAN’s OFFICE, ARE NOT BINDING.</p> <ul style="list-style-type: none"> • Students requesting accommodations may do so through the Office of Student Affairs.
Title IX Policy	<p>Texas Southern University is committed to fostering a safe learning environment. As a professor, one of my responsibilities is to help create a safe learning environment in class. Texas Southern University and Federal Regulations (Title IX) policy prohibit discrimination based on sex, and this includes sexual harassment, sexual violence and misconduct, dating violence, domestic violence, and stalking. Texas Southern University understands that these incidents can undermine a student’s academic success. Thus, the University encourages students who have experienced sexual conduct prohibited by university policy to report these incidents when they happen to the University’s Title IX Coordinator or University Confidential Resource so that the student can get the help they may need.</p> <p>It is my goal that you feel able to share information related to your life experiences in classroom discussions, in your written work, and one-to-one meetings. I will seek to keep the information you share private to the greatest extent possible. However, I also have a mandatory responsibility to notify the University’s Title IX Coordinator when I become aware of incidents of prohibited conduct that violate the University’s Title IX policy.</p> <p>Students may speak confidentially to the University Counseling Center. Please feel free to visit their website www.tsu.edu/ucc for more information about their services. Also, students may speak with the University’s Title IX Coordinator by calling 713.313.1371 or emailing titleix@tsu.edu.</p>

Calendar	FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)		
Orientation	Monday-Friday	August 9-13, 2021	
First Day of Class	Monday	August 16, 2021	
Last Day to ADD/DROP	Wednesday	August 18, 2021	
Labor Day (NO CLASSES)	Monday	September 6, 2021	
Purge of all unpaid course selections	Wednesday	September 15, 2021	
Mid Term Examinations	Mon – Fri	October 11-15, 2021	
Last Day to Drop a Class	Friday	November 5, 2021	
Last Day of Classes	Tuesday	November 23, 2021	
First Year Professors' Grades due	Tuesday	November 23, 2021	
Reading Period	Wed	November 24, 2021	
Thanksgiving Holiday	Thurs –Friday	November 25-26, 2021	
Reading Period	Sat- Sun	November 27-28, 2021	
Final Examinations	Monday - Friday	November 29-Dec. 10, 2021	
Commencement Exercises Saturday December 11, 2021			