This syllabus contains a general plan for the course. Deviations may be necessary.

Professor

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Class Time and Place

Meeting days: Monday, Wednesday, and selected Friday’s
Meeting time: 9:00-11:00am
Location: 216

Office Hours

Monday and Wednesdays 11:30-3:00pm, Tuesday 10:00-2:00pm,
Additional hours as needed by appointment only at Massael-shafia@laverne.edu

Course Description

This course examines the rules and policies governing the fact-finding processes at trial, emphasizing rules relating to admitting and excluding evidence. Among the topics considered are relevance, judicial notice, witness competence and examination, hearsay, and burdens of proof. The course emphasizes a working knowledge of the concepts of courtroom evidence, as exemplified in the Federal Rules of Evidence. Examples from the California Evidence Code will also be analyzed, particularly where the Code differs significantly from the Federal Rules. The course heavily emphasizes practical application of evidentiary rules to factual situations.

Basis of Grade

Please read the College of Law policy regarding attendance. There are no “excused” absences. I expect students to come to class on time, prepared, and willing to add to class discussions. I require that class discussions reflect tolerance for, and respect of, others’ perspectives and views.

I will evaluate students using their performance on a final exam (at least 60%), and one or more pre-final tests or projects, and exceptional attendance and outstanding classroom discussion (up to 40%). I assign points to each component of the evaluation for the course based on a maximum 1000 points. So, for example, if the midterm is worth 25%, the maximum score will be 250
points. Final exams will be closed-book. Generally, exams will consist of essay and multiple choice type questions.

In most cases, ‘exceptional attendance’ means perfect or near perfect attendance. ‘Outstanding classroom participation’ includes a demonstrated ability to prepare for class giving thoughtful attention to the assigned materials, as well as significant participation in the classroom discussion regarding those materials.

**Required and Suggested Materials**

**Required Electronic Material:**

Register for TWEN

**Required Text:**


**Required Supplemental Materials:**


**Optional/Recommended Materials:**


**ABA Standard 310**

This course is designed to satisfy the requirements of ABA Standard 310. Standard 310 requires that for each hour of in-class time, students spend two hours preparing for class (reading or completing class assignments or assessments).

**Course Objectives**

This course examines the rules and policies governing the fact-finding processes at trial, emphasizing rules relating to admitting and excluding evidence. Among the topics considered are relevance, judicial notice, witness competence and examination, hearsay, and burdens of proof. The course emphasizes a working knowledge of the concepts of courtroom evidence, as exemplified in the Federal Rules of Evidence. Examples from the California Evidence Code will also be analyzed, particularly where the Code differs significantly from the Federal Rules. The course heavily emphasizes practical application of evidentiary rules to factual situations.
Course-Specific Learning Outcomes

At the conclusion of this course, students will be able to:

Identify and apply the policies governing the fact-finding processes at trial using the Federal Rules of Evidence and the California Evidence Code as context;

Identify and apply the rules relating to admitting and excluding evidence using the Federal Rules of Evidence and the California Evidence Code;

Develop and apply individual analytical approaches addressing scenarios regarding relevance, character evidence, witness competence and examination, confidentiality and confidential communications, and burdens of proof;

Develop and apply a large-scale approach addressing scenarios involving admitting and excluding evidence using the Federal Rules of Evidence and the California Evidence Code;

Competently identify and resolve evidentiary issues, applying policies and rules, in an essay exam format mirroring California bar exam questions;

Competently answer questions regarding the application of the Federal Rules of Evidence in a Multistate Bar Exam format.

Disability Accommodations Statement

Students with disabilities should refer to the policies described at the University of La Verne Disabled Student Services Handbook [as of September 13, 2017 located at https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/, which can be found on the website of the University of La Verne Disabled Student Services website (https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/) or at their office. Temporary accommodations are offered on a case by case basis. All required documentation must be submitted by the student before any formal accommodations and should be made directly to the Director of Student Affairs.

Any student eligible for and requesting academic accommodations due to a documented disability (or a suspected disability) is asked to contact the College of Law Director of Student Affairs and Americans with Disability Act Compliance Officer, Akita Mungaray by email at amungaray@laverne.edu or by phone at (909) 460-2017. Her office is located on the first floor of the College of Law, Office # 107. You can also contact Cynthia Denne at the University of La Verne Disabled Student Services office at (909) 448-4441. The office is located at the La Verne campus Health Center. In order to be considered for accommodations, disabilities must be documented and the proper medical evaluations must be submitted. The office is here to help you succeed in law school. Visit it online at https://sites.laverne.edu/disabled-student-services/.
Course-Specific Policies

Laptop computers are allowed for briefing cases and taking notes in class. Case briefs will be randomly collected and/or emailed throughout the duration of this course.

Reading Assignments

Week #1 August 20th-August 24th

I. INTRODUCTION - PRESERVING THE RECORD
   Federal Rules of Evidence (FRE) 101-106
   MCCORMICK, pp. 1-12; 119-43
   WALTZ & PARK, Making the Record, pp. 1-68 (read for background information)
   Fuller v. State (supplement) Smith v. State (supplement)
   Brooks v. State (supplement)
   Brooks v. Texas (supplement)
   Brooks v. Estelle (supplement)
   Loudres v. State (supplement)
   Bob Ray Sanders, The First to Die by Injection, STAR TELEGRAM (supplement)
   Robert Reinhold, Execution by Injection Stirs Fear and Sharpens Debate, NYTIMES, December 8, 1982 (supplement)
   Litigation Track Problem 1 (supplement)

II. RELEVANCE, AND ITS COUNTERWEIGHTS
   A. Relevance to What
      FRE 401, 402 MCCORMICK, pp. 395-99 WALTZ & PARK, pp. 79-84
      Problem 1 (supplement)
      Union Paint & Varnish V. Dean (note case, p. 82)
   B. Relevance and Inference
      FRE 401, 402
      WALTZ & PARK, pp. 84-88
      Knapp v. State
      Sherrod v. Berry (note case, p. 88)
   C. Probative Value Versus Prejudicial Effect
      FRE 403
      WALTZ & PARK, pp. 88-108
   D. Character, Habit, and Custom
      FRE 404, 405, 406, 412, 413, 414, 415 MCCORMICK, pp. 401-19
      1. Character in Issue
         WALTZ & PARK, pp. 108-111
Week #2 August 27th-August 31st

2. Character as Circumstantial Evidence
   WALTZ & PARK, pp. 111-44; 162-79

3. Habit

E. Similar Happenings

Michelson v. United States
United States v. Carrillo
United States v. Beasley
United States v. Cunningham
Tucker v. State
Dowling v. United States (note case, p. 149)
State v. Cassidy
Olden v. Kentucky
Johnson v. Elk Lake School District
People v. Watkins (note case, p. 176)
WALTZ & PARK, pp. 157-62
Halloran v. Virginia Chemicals, Inc.
Reyes v. Missouri Pacific Railroad (supplement)
Levin v. United States (supplement)
MCCORMICK, pp. 421-26 WALTZ & PARK, pp. 179-82
Simon v. Kennebunkport

F. Subsequent Precautions
   FRE 407
   MCCORMICK, pp. 595-97 WALTZ & PARK, pp. 182-92
   Tuer v. Maryland

G. Offers in Compromise
   FRE 408, 409, 410 MCCORMICK, pp. 592-95 WALTZ & PARK, pp. 192-95
   Davidson v. Prince
   United States v. Mezzanatto (note case, p. 195)

H. Insurance Against Liability
   FRE 411
   MCCORMICK, pp. 427-29

Week#3 September 5th-September 7th

III. THE HEARSAY RULE

A. Rationale and Meaning
   FRE 801(a-c) 802, 805, 806 MCCORMICK, pp. 539-52
B. Exclusions from the Hearsay Rule

1. Prior Statements by Witnesses FRE 801(d)(1)
   MCCORMICK, pp. 552-56 FISHMAN, pp. 41-66 WALTZ & PARK, pp. 386-91
   United States v. Biener (supplement)
   State v. Saporen (supplement)
   United States v. Parry (supplement)
   United States v. Red Feather (supplement)
   United States v. DeSisto (supplement)
   United States v. Owens

2. Opposing Party’s Statements FRE 801(d)(2)
   MCCORMICK, pp. 573-91
   FISHMAN, pp. 67-99
   WALTZ & PARK, pp. 250-68; 275-80
   Reed v. McCord
   United States v. Hoosier
   State v. Carlson
   Mahlandt v. Wild Canid Survival & Research Center
   Big Mack
   Trucking Co. v. Dickerson
   Bourjaily v. United States
   State v. Martinez (supplement)

Week#4 September 10th-September 14th

C. Exceptions to the Hearsay Rule
1. Declarant Unavailable
   FRE 804
   MCCORMICK, pp. 567-71 FISHMAN, pp. 241-46
   Warren v. United States (supplement)
   Barber v. Page (supplement)

   a. Former Testimony
      MCCORMICK, pp. 645-53 FISHMAN, pp. 247-3
      WALTZ PARK, pp. 344-54
      Travelers Fire Insurance Co. v. Wright
      United States v. Salerno

   b. Dying Declarations and Forfeiture of Objections
      MCCORMICK, pp. 655-59; 570-71 FISHMAN, pp.263-68
      WALTZ & PARK, pp. 369-86
      R. v. Perry
      State v. Williams
      Reese v. Bara (supplement)
      Garza v. Delta Tau Delta Fraternity National Giles
      v. California

   c. Declarations Against Interest
      MCCORMICK, pp. 661-67 FISHMAN, pp. 268-87
      WALTZ & PARK, pp. 355-56; 358-
      Gichner v. Antonio Troiano Title (supplement)
      State v. English
      G.M. McKelvey Co. v. General Casualty Co. of America
      United States v. Barrett
      Green v. Georgia (note case, p. 363)
      Williamson v. United States

   Week #5 September 17th-September 21st

   d. Medical Diagnosis/Treatment FRE 803(4)
      MCCORMICK, pp. 617-19 FISHMAN, pp. 153-61
      WALTZ & PARK, pp. 339-44
      United States v. Iron Shell (supplement)
      United States v. Tome

   e. Past Recollection Recorded FRE 803(5)
      MCCORMICK, pp. 621-24 FISHMAN, pp. 163-79
      WALTZ & PARK, pp. 392-403
      Baker v. State
      Adams v. The New York Central Railroad Co.
      United States v. Edwards (supplement)
f. Records of Regularly Conducted Activity (Business and Public Records) FRE 803(6-8)
   MCCORMICK, pp. 625-44 FISHMAN, pp. 179-221 WALTZ & PARK, pp. 404-64
   Johnson v. Lutz
   United States v. Vigneau
   United States v. Duncan
   Williams v. Alexander
   Hahnemann University Hospital v. Dudnick
   Palmer v. Hoffman
   Lewis v. Baker
   Sana v. Hawaiian Cruises, Ltd.
   Beech Aircraft v. Rainey
   Williams v. Illinois
   United States v. Grady
   United States v. Quezada (supplement)

   g. Miscellaneous Exceptions
   FRE 803(9-12, 15-18, 22)
   MCCORMICK, pp. 669-74 FISHMAN, pp. 223-40
   WALTZ & PARK, pp. 465-70
   Stroud v. Cook

h. Residual Exceptions FRE 807
   MCCORMICK, pp. 674-77 FISHMAN, pp. 299-308
   WALTZ & PARK, pp. 471-400
   Turbyfill v. International Harvester Co.
   Zenith Radio Corp. v. Matsushita Electrical Industrial Co., Ltd

Week#6 September 24th-26th (possible midterm)

V. IMPEACHMENT AND REHABILITATION; CROSS-EXAMINATION
   A. Impeaching One’s Own Witness
      FRE 607
      MCCORMICK, pp. 68-70
      PARK & FRIEDMAN, pp. 485-94
      United States v. Hogan

   B. Cross Examination
      FRE 611, 612, 615
      MCCORMICK, pp. 59-76
      Turbyfill v. International Harvester Co.
      Video - Younger, The Ten Commandments of Cross Examination
      available on youtube: https://www.youtube.com/watch?v=dBP2if0l-a8
      and in the law library

   C. Impeachment
1. Contradiction

McCORMICK, pp. 77-78

McCORMICK, pp. 103-04
PARK & FRIEDMAN, pp. 494-501
State v. Oswalt
United States v. Copelin

2. Character of the Witness

McCORMICK, pp. 78-114

a. Prior Bad Acts

FRE 608
PARK & FRIEDMAN, pp. 501-18
United States v. Owens
United States v. Drake
United States v. Saada

b. Prior Convictions

FRE 609
PARK & FRIEDMAN, pp. 518-34
United States v. Sanders
United States v. Brackeen
Luce v. United States

c. Bad Reputation for Truth and Veracity

FRE 608
PARK & FRIEDMAN, pp. 534-35

Week #7 October 1st-3rd

3. Psychiatric Condition

PARK & FRIEDMAN, pp. 535-42
United States v. Lindstrom

4. Prior Statements to Impeach or Rehabilitate

FRE 613
PARK & FRIEDMAN, pp. 542-54
Coles v. Harsch
Tome v. United States

5. Bias

PARK & FRIEDMAN, pp. 554-61
United States v. Abel

VI. CONFIDENTIALITY AND CONFIDENTIAL COMMUNICATION

FRE 501
McCORMICK, pp. 163-76

A. Attorney-Client Privilege

McCORMICK, pp. 187-211
PARK & FRIEDMAN, pp. 563-90
United States v. Woodruff
Upjohn v. United States
City and County of San Francisco v. Superior Court
Clark v. State
United States v. Zolin
Swidler & Berlin v. United States (note case, p. 587)

B. Physician-Patient and Psychologist-Patient Privileges
McCORMICK, pp. 213-220
PARK & FRIEDMAN, pp. 590-608
Prink v. Rockefeller Center Inc.
Jaffee v. Redmond
People v. Sergio

C. The Marital Privilege
McCORMICK, pp. 177-85
PARK & FRIEDMAN, pp. 608-15
Trammel v. United States

D. Miscellaneous Privileges
PARK & FRIEDMAN, pp. 615-635
In re Grand Jury Investigation
In re Grand Jury
Matter of Farber

E. Inadvertent Waiver
PARK & FRIEDMAN, pp. 635-40
Peterson v. Bernardi

E. Governmental Privileges
McCORMICK, pp. 223-33
PARK & FRIEDMAN, pp. 641-67
United States v. Reynolds
United States v. Nixon
United States v. Tzannos
Roviaro v. United States (in Tzannos opinion, p. 662)

Week #8 October 8-10

VI. WRITINGS
United States v. Reynolds
United States v. Nixon
United States v. Tzannos
Roviaro v. United States (in Tzannos opinion, p. 662)

A. Best Evidence Rule
FRE 1001-1008 MCCORMICK, pp. 521-36 WALTZ & PARK, pp. 669-79
Meyers v. United States People v. Enskat
United States v. Diaz-Lopez
B. Authentication
FRE 901-903
MCCORMICK, pp. 505-19 WALTZ & PARK, pp. 679-96
United States v. Dockins
United States v. Hampton
First State Bank of Denton v. Maryland Casualty Co. Griffin v. State

VII. COMPETENCY OF WITNESSES
FRE 601-606
MCCORMICK, pp. 27-28; 147-60 WALTZ & PARK, pp. 697-83
Hill v. Skinner
Rock v. Arkansas
State v. Moore
Tanner v. United States Ballinger v. Kirby (supplement)

Week #9 October 15-17

VIII. JUDICIAL NOTICE
FRE 201
MCCORMICK, pp. 689-712

A. Adjudicative Facts
WALTZ & PARK, pp. 727-34
De La Cruz v. City of Los Angeles Fielding v. State

B. Legislative Facts
WALTZ & PARK, pp. 734-39

C. Jury Notice
WALTZ & PARK, pp. 739-44
United States v. Amado-Nunez
State v. Mann (supplement)

IX. BURDENS OF PROOF
FRE 301, 302
MCCORMICK, pp. 715-52

A. Civil Cases
WALTZ & PARK, pp. 745-73
In re Nicholas H.

B. Criminal Cases
Texas Jury Instruction, Beyond a Reasonable Doubt (supplement) WALTZ & PARK, pp. 773-81
Week #10 October 22-24

X. OPINION, EXPERTISE, AND EXPERTS

A. Opinion, Expertise, and Experts

FRE 701-706
MCCORMICK, pp. 28-57 WALTZ & PARK, pp. 783-852
Commonwealth v. Holden
Government v. Virgin Islands v. Knight State v. Odom
United States v. Johnson (supplement) United States v. Scop
Ingram v. McCuistion
People v. Garrdely
United States v. Moore
United States v. Kristiansen

Week #11 October 29th-October 31st

B. Scientific and Demonstrative Evidence

MCCORMICK, pp. 431-40; 462-75 WALTZ & PARK, pp. 852-32; 935-41;
Frye v. United States (handout)
Daubert v. Merrell Dow Pharmaceuticals, Inc. General Electric v. Joiner (note
case, p. 867) Kumho Tire Company, Ltd. v. Carmichel
Ellis v. State
United States v. Saelee
State v. Porter
United States v. Piccinonna
United States v. Scheffer
State v. Chapple
United States v. Horn (supplement)
Problem 2 (supplement)
People v. Collins
People v. Mountain
Kammer v. Young
Brown v. Farwell
Stewart v. State (supplement)

Week #12 November 3rd-November 5th
Review for Final and Final Examination

Appendix of Mission, Values and Learning Outcomes

University of La Verne Mission and Values

It is the mission of the University of La Verne to provide opportunities for students to achieve their educational goals and become contributing citizens to the global community.

The University of La Verne shares four core values that promote a positive and rewarding life for its students through fostering a genuine appreciation and respect for:

1. Values Orientation. The University affirms a philosophy of life that actively supports peace with justice, the health of the planet and its people. Therefore, in light of this affirmation, it encourages students to become reflective about personal, professional, and societal values. It also encourages values-based ethical behavior.

2. Community and Diversity. The University promotes the goal of community within a context of diversity. Therefore, it encourages students to understand and appreciate the diversity of cultures that exists locally, nationally, and internationally. It also seeks to promote appreciation and preservation of biodiversity by helping students understand the impact/dependence of human beings on their environment.

3. Lifelong Learning. The University commits itself to promoting education that facilitates lifelong learning. Therefore, it teaches students how to learn, to think critically, to do constructive research, and to access and integrate information in order to prepare them for continued personal and career growth.

4. Community Service. The University believes that personal service is a primary goal of the educated person. Therefore, it encourages students to experience the responsibilities and rewards of serving the human and ecological community.

University of La Verne College of Law Vision, Mission, and Values

VISION

La Verne Law is an incubator for innovation in legal education, thought, and advocacy for individuals passionate about serving their communities and promoting access and justice.

MISSION

The mission of La Verne Law is to guide our students in the discovery of law and self as they prepare for the practice of law or other professional careers. Our faculty of scholars and teachers is committed to creating an innovative, collaborative learning environment designed to develop the knowledge and skills relevant to achieving individual and professional success.

Our mission encompasses educating, as well as enhancing the professional lives of, the members of the local, regional, national, and international communities we encounter – students, faculty,
staff, administrators, alumni, members of the bench and bar, and others who pursue social jus-
tice.

Our mission is grounded in the core values of the University of La Verne – life-long learning, ethical reasoning and decision-making, diversity & inclusivity, and community & civic engage-
ment.

Difference-making is our legacy.

CORE VALUES

University Values: As a College within the University of La Verne we adopt and endorse the University core values of Lifelong Learning, Diversity and Inclusivity, Community Engagement, and Ethical Reasoning.

College of Law Core Principles and Values: As an institution dedicated to teaching and training the next generation of lawyers and leaders, we operate institutionally and individually on the principles of professionalism, innovation, ethics, student centeredness and community enhancement. In our actions and interactions, we are and seek to be affirming, respectful, humble, ac-
countable, committed, inclusive, empathetic, responsive, passionate, and positive.

University of La Verne College of Law Program Objectives

A. Upon completion of the program of legal education, students will possess the skills and knowledge to enable them to pass any bar examination of their choosing.

B. Upon completion of the program of legal education, students will possess those skills to participate as respected members of the legal profession.

C. Upon completion of the program of legal education, students will model ethical, respon-
sible, and professional behavior.

D. Upon completion of the program of legal education, students will embrace cultural differ-
ences and civic and community engagement.

American Bar Association Standard 302: LEARNING OUTCOMES

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:
(a) Knowledge and understanding of substantive and procedural law;
(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral commu-
nication in the legal context;
(c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
(d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

In compliance with ABA Standard 302, the University of La Verne College of Law has estab-
lished the following.
University of La Verne College of Law Program Learning Outcomes

1. Students shall demonstrate knowledge and understanding of substantive and procedural law.

2. Students shall demonstrate competence in legal analysis and reasoning.

3. Students shall demonstrate competence in conducting legal research.

4. Students shall demonstrate competence in problem-solving.

5. Students shall demonstrate competence in written and oral communication.

6. Students shall be able and motivated to exercise proper professional and ethical responsibilities to clients, the legal system, and the wider community.

7. Students shall demonstrate competent litigation skills.

8. Students shall demonstrate competent transactional skills.

9. Students shall apply cultural competency while exercising their legal skills.