

**HEARSAY**  
**Professor Crocker**  
**University of La Verne College of Law**  
**Spring 2019**  
**One Unit**

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**Professor**

Justin J. Crocker  
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**Class Time and Place**

Meeting days: Wednesdays  
Meeting time: 8:45 p.m. – 9:45 p.m.  
Location: 217

**Office Hours**

E-Mail me to make an appointment, I don't keep regular office hours. Please note, I am usually in Victorville or San Bernardino Monday through Friday from around 8 a.m. to 5 p.m. If you need to meet during those times, please try to give me at least a week notice to make sure I clear my schedule.

**Course Description**

The rule against hearsay is an often invoked, yet widely misunderstood, rule of evidence. It is also regularly tested on the bar. This course will revisit the hearsay rule and the many exceptions that exist under both federal and California law. Students will learn precisely what constitutes hearsay, why so many exceptions exist, and how to walk through a hearsay analysis.

**Basis of Grade**

The final grade will be weighted as follows: 10% in-class participation, 30% in-class benchmarks (four tests will be administered during the semester and you will be able to drop your lowest score), and 60% final examination.

**Required and Suggested Materials**

Required:

*A Student's Guide to Hearsay*  
Clifford S. Fishman  
4<sup>th</sup> Edition

*Federal and California Evidence Rules: 2018 Supplement*  
Miller, Leach, and Uhrig  
(2017 Version is acceptable)

Recommended:

*California Evidence: Examples and Explanations*  
Chris Chambers Goodwin  
2<sup>nd</sup> Edition

### **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**

The objective of this course is for students to know and understand the rules of hearsay and its exceptions. Additionally, students will study the rationale behind each of the rules and exceptions. By understanding the rules and rationale, students will be better prepared for both the bar exam and encountering hearsay in practice.

### **Course-Specific Learning Outcomes**

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

- Identify hearsay
- Articulate what exceptions from the rule or definition may apply
- Persuasively argue for and against the admission of hearsay
- Recognize the differences between the Federal Rules of Evidence and California Evidence Code

### **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](mailto: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**

1. *Attendance, Participation, and Preparation:* Attendance is mandatory by College of Law policy. Absences in excess of 20% of regularly-scheduled class meetings result in automatic withdrawal from the course, ineligibility to take the final exam, and a grade of 0.0 unless, upon petition by the student, the Dean determines that the student should receive an IWF. Students will receive the full benefit of the course only by attending every class session and actively participating. Please also note that **10% of the grade in this class is based on attendance and participation.**
2. There is no formal make-up policy for this class. Requests to make up missed class will be considered on a case-by-case basis. This accommodation will only be made with timely requests and for good cause – communication is key. Any requests for religious accommodations should be addressed to the Associate Dean of Academic Affairs within two weeks of the start of the semester or other notice of relevant dates.
3. *Tardiness:* Students are expected to arrive on time and stay for the full class session as a matter of courtesy to your classmates and the professor.
4. *Religious Accommodations:* Students who require accommodations based on religious observation should notify the Registrar, the Associate Dean of Academic Affairs, or Cindy Denne at the beginning of the semester.

**Note:** Students who wish to receive an accommodation of any kind on the bar should research the policies and practices of the state in which they wish to be licensed and **begin the process early.** In California, for instance, obtaining an accommodation is difficult and best pursued well in advance of the bar.

5. *Plagiarism:* Plagiarism is unethical and is prohibited by College of Law policy. A violation of this policy will result in a score of zero on the assignment and the student being reported to the administration. Further, the student may receive a grade of no credit in the course. Plagiarizing may adversely affect your moral character determination with the state bar and your future career. To avoid this possibility, students should keep in mind that assignments are submitted for academic credit and that academic practices may differ somewhat from those of practicing attorneys. Students

should also review the Student Handbook/MAPP to familiarize themselves with the College of Law Plagiarism Policy.

6. *Electronics and Food/Drink:* We have a lot to cover in just one hour of lecture each week. For that reason, it is important to all of us that students are engaged and paying attention. For now, laptops will be allowed but cell phones should not be out in class, its only one hour, you will be ok. However, if you have a legitimate reason you need to have your phone out (i.e. a close family member may have an emergency that requires you to leave immediately), let me know before class and it will be permitted. If I find that laptops are too much of a distraction, I may change my rules. If you have a medical reason you need a laptop or other electronic device, talk to me and I will accommodate to the best of my ability. Food and drink are fine so long as they are not somehow distracting to the class (because of noise or smell).
7. *Following Directions:* To pass the bar exam, the ability to follow directions is crucial. Students are expected to follow explicit directions; **no credit will be given for non-compliant work.**
8. *Adherence to College of Law MAPP:* Students are expected to be familiar with and to adhere to the Manual of Academic Policies and Procedures.
9. *Changes to Syllabus:* The professor reserves the right to change the syllabus as necessary to accomplish the course objectives throughout the semester. Students will receive notice of any changes made.

**Reading Assignments**

Week	Topic	Readings
1	Introduction to Hearsay: Out of Court Statement	Fishman: 1.1-2.19 FRE: 801 (Rule) CEC: 125, 135, 145, 225, 1200
2	Introduction to Hearsay: Offered for its Truth Multiple Levels of Hearsay	Fishman: 2.20-2.40, Chapter 7 FRE: 805 CEC: 1201
3	Benchmark # 1	None
4	Exceptions to Hearsay Definition (Nonhearsay) Use of Prior Statements and Party Opponent Statements	Fishman: 3.1-3.4, Chapter 4 and 5 FRE: 801(d) CEC: 613, 1235-

		1236, 1238, 791, 1220-1227, 1204
5	Sixth Amendment/Confrontation Clause	Fishman: Chapter 6 <i>People v. Sanchez</i> (2016) 63 Cal.4 <sup>th</sup> 665
6	Benchmark # 2	None
7	Exceptions to the Hearsay Rule, Pt. 1	Fishman: Chapter 8 FRE: 803(1)-(4) CEC: 1240-41, 1250-53, 1260-61
8	Exceptions to the Hearsay Rule, Pt. 2	Fishman: Chapter 9 FRE: 803(5)-(10) CEC: 1237, 1270-72, 1280-84, 452.5
9	Exceptions to the Hearsay Rule, Pt. 3	Fishman: Chapter 10 FRE: 803(11)-(23) CEC: 1312-16, 1330-31, 1340-41, 1320-24, 1300-02
10	Benchmark # 3	None
11	Exception to Hearsay Rule: Unavailable Witness	Fishman: Chapter 11 FRE: 804 CEC: 240, 1290-94, 1242, 1230, 1310-11, 1350, 1390
12	The Residual Exception California Specific Rules	Fishman: Chapter 12 FRE: 807 CEC: 1203.1, 1228, 1231, 1231.1-4, 1360, 1370, 1380 Cal Penal Code 872
13	Benchmark # 4	None
14	Review Week	None

## **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 justice.

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 engagement.

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, accountable, 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, responsible, and professional behavior.
- D. Upon completion of the program of legal education, students will embrace cultural differences 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 communication 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 established 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.
10. Students shall demonstrate competence in answering bar-style multiple-choice, essay, and performance test questions.