Evidence - 7040-001
Fall 2012
Professor Teneille R. Brown
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Class Meets: Mon/Wed/Thurs – 3:15 – 4:30 in Room 106

GOALS OF THE COURSE:

• Sharpen legal analytical tools (analogizing, distinguishing, anticipating, resolving)
• Learn the FRE (black letter) and frontier theories of Evidence
• Understand the history, policy implications, and opportunities for reform
• Understand how Evidence law fits in with the broader legal system

OFFICE HOURS:

Email me to make appointments.

REQUIRED TEXT:
I will draw heavily from the required text George Fisher’s EVIDENCE (2nd ed, 2008).
I will supplement/update the book occasionally with cases and articles that I will post on TWEN.

TWEN:
The class TWEN site can be found on Westlaw. This is an online page where I can post extra readings and you can post messages. To find our site, login to Westlaw and click on the TWEN tab on the top of the home page. You can then select “add course” and click on Evidence 7040-001.

CLASS ATTENDANCE & PARTICIPATION:
The course will involve a mixture of lectures, questions to the class, and group discussion. You will be expected to come to class prepared and able to contribute meaningfully. 10% of your final grade will be based upon class participation, which will be measured by quality, not quantity. I will take attendance every day. You can miss class three times before your grade is reduced. I will keep track of who comments in each class using the seating chart. I will periodically walk around the room to gauge participation. If you are surfing the web, your participation will also be docked. If this becomes a problem, I reserve the right to cut off wireless access to the class.

FINAL EXAM:
The final exam will consist of a 4 hour in-class exam. The exam will be open book and open notes. After the grades have posted, I will not make any grade changes unless there is a clerical error. If you are unsatisfied with your grade, you must 1) check out a copy of your exam from Laura Skousen, 2) review it thoroughly against the exemplars, and then 3) write me an email setting up a time to meet, outlining the particulars of what you would like to discuss and what you felt you missed. You may also follow the same procedure if you are happy with your grade and just want to discuss what you did right.

CRITERIA FOR GRADING
10% - CLASS PARTICIPATION
90% -- FINAL EXAM (4 hour open book, in-class exam)

1 Please let me know if you will be attending a religious event or observance. If you let me know in advance, this will not count as a pass.
The law school has a mandatory average grade range of 3.10 to 3.30.

**HONOR CODE & CLASS RECORDING**
Please review the honor code and understand that proved instances of cheating and plagiarism will be punished to the fullest extent possible. [http://www.regulations.utah.edu/academics/6-400.html](http://www.regulations.utah.edu/academics/6-400.html). You could receive a failing grade or you could be kicked out of our law school. If you need to have a lecture recorded, please email me several days in advance. If the reason is legitimate, I will work with the IT department to get the lecture recorded. Unauthorized recording (video, audio, or photography) of the class will result in a ½ grade reduction.

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**PRELIMINARYREADING SCHEDULE:**

1. Introduction
   - p.1-16
2. Relevance
   - a. General Principles
   - b. Conditional Relevance
   - c. Probative vs. Risk of Unfair Prejudice, pt. 1
   - d. Probative vs. Risk of Unfair Prejudice, pt. 2
   - e. Probability Evidence
   - f. Stipulations
   - p.18-30
   - p.31-38
   - p.38-53
   - p.54-60
   - p.61-74
   - p.75-89
3. Specialized Relevance
   - a. Subsequent Remedial Measures
   - b. Apologies
   - c. Payment of Medical Expenses, Compromise
   - d. Liability Insurance
   - e. Pleas
   - p.94-107
   - See TWEN folder “apologies”
   - p.107-116
   - p.116-127
   - p.127-134
4. Character Evidence
   - a. Propensity Rule
   - b. Routes to the Same Info
   - p.135-154
   - p.155-178