

# EVIDENCE

Fall 2018

Professor Robert W. Gagnon  
[rgagnon@vermontlaw.edu](mailto:rgagnon@vermontlaw.edu)

## **Office Hours:**

**218 Waterman**

Tuesday, from 12:45-2:00 or by appointment or by chance

## **Required Texts:**

Mueller & Kirkpatrick, *Evidence Under the Rules*, 8<sup>th</sup> Ed. Aspen  
Federal Rules of Evidence Handbook, 2016-20 Ed., LexisNexis (or any current copy of the rules with the advisory committee notes).

## **Recommended Outside Texts:**

Arthur Best, *Evidence Examples & Explanations*, 6<sup>th</sup> Ed.

## **Class Requirements:**

Attendance will be taken. Beside classes, which meet Tuesday, Thursday and Friday at 11:20 a.m., there are eight (8) labs you are required to attend.

Labs usually begin the fourth week of the semester or the week of September 24, 2018. You will be assigned to a lab. You need to check to see when that meets and where. In weeks where there is a lab, the evidence class will meet on Tuesday and Thursday only. There is no Friday lecture during Lab season.

Your attendance, preparation, and participation are expected for class and labs.

## **Grades:**

Your final grade will be based on the final exam, your lab grade, and your participation in class. I reserve the right to modify grades based on class participation.

What can you expect from this class? The theoretical and logical underpinnings of the rules will be exposed by the readings and lectures. The labs will expose you to the actual practical employment of the rules in the context of simulated litigation. With effort and hard work, you will be prepared for the bar and initial litigation application.

SYLLABUS  
(Provisional)

- Class 1**                                    *Introduction to the Adversarial System (A trial)*  
FRE 103, 403, 611  
Text pp.1-51; Problems 1-A and 1-B
- Class 2**                                    *Relevance*  
FRE 104, 401,402  
Text pp. 53-69; Problems 2-A, B, C, and D
- Class 3**                                    *Relevance continued*  
FRE 105, 106, 403, 411  
Text pp.71-94; Problems 2- E, F, G, and I.
- Class 4**                                    *Relevance Continued*  
Text pp.95-110; Problem 2-J
- Class 5**                                    *Authentication*  
FRE 901 & 902  
Text pp. 895-914; Problems 13-A, B, C, D & E
- Class 6**                                    *Hearsay, Introduction*  
FRE 802 & 802 (read all rules in 800s to get a general idea of hearsay and its exceptions)  
Text pp. 111-132; Problems all
- Class 7**                                    *Hearsay Continued*  
FRE 801(a)-(c)  
Text pp.133-144; Problems all.
- Class 8**                                    *Hearsay Continued*  
Text pp.145-158; Problems all
- (Do the test on pp. 162 on your own. We will discuss/review it in class)
- Class 9**                                    *Hearsay Exceptions*  
FRE 801(d) (1) (A) (B) & (C)  
Text pp. 165-182; Problem 4-A & B
- Class 10**                                    *Hearsay Exceptions Continued: Admissions by a Party Opponent & Adoptive Admissions*  
FRE 801(d)(2)(A) & (B)  
Text pp.183-212; Problems all



