

LAW 309 – EVIDENCE
Instructor: Colleen J. Smith
Spring 2012 (2.0 units)

COURSE DESCRIPTION

Instructor Contact Information

Colleen J. Smith
Faculty of Law, Office 212
(250) 721-8187
cjlaw@uvic.ca

Office Hours: Mon 10:00-11:30, 3:30-5:00; Thurs 9:00-11:00

Course Schedule & Location

Tuesday & Thursday, 3:30 p.m. to 5:20 p.m.
Classroom 157

Classes commence Thursday, January 5, 2012
Last class will be held Thursday, April 5, 2012
No classes held Reading Week, February 14 & 16, 2012

Course Description and Objectives

This course is an introduction to the law of evidence in Canada. The law of evidence is a complex and rapidly changing area of law. As such, this course cannot be comprehensive in its treatment of any particular evidentiary issue. Instead, the objective of this course is to provide students with a solid introduction to and provoke interest in this fascinating and critically important area of law. Emphasis will be placed on a practical understanding of how the law is applied in court. The course will focus on the following topics:

1. The substantive law of evidence, including basic concepts such as relevance and admissibility, exclusionary rules based on unreliability and prejudicial effects, exclusionary rules based on policy rationales, and other aspects of proof.
2. The effect of the *Canadian Charter of Rights and Freedoms* upon the law of evidence.
3. The way that the laws of evidence work in trial practice, and how evidence is presented to triers of fact to enhance the truth-seeking function of trials.
4. Learning skills to analyze and resolve the sorts of problems that arise in practice and that may be characterized as “evidence problems.”
5. Issues of professional responsibility and ethics in the context of the trial process.

Teaching Methodology

This course will be taught through a combination of lectures, class discussions and exercises, group exercises, and guest speakers. **Students are expected to:**

1. Have read the assigned materials prior to class;
2. Be able to *identify* and state the *issues* presented by the assigned materials; and
3. Participate in class discussion of the assigned materials.

The purpose of discussion is to develop an understanding of the issues presented by the materials; to develop the student's ability to analyze, synthesize, and present legal material; and to enable the instructor to gain a sense of the student's understanding of the materials and achievement of the objectives referred to above.

Required Materials and Assigned Readings

1. Required Text

The required text for this Course is available in the bookstore and is titled:

Stewart, et al. *Evidence: A Canadian Casebook*, 3d ed, (Toronto: Emond Montgomery, 2011).

2. Course Pack

There is a required course pack for this course. It is for sale through the CDC and is also On Reserve in the library. It is an excerpt from Chapter 6 of the following book (which is also on reserve):

Binder, David A. & Paul Bergman *Fact investigation: From Hypothesis to Proof* (St. Paul, Minnesota: West Publishing Co, 1984).

3. Materials on Moodle

A Course Schedule & Reading List will be distributed and posted on Moodle. This schedule will be revised and adapted through the term. Check Moodle for updates.

4. Hamar Foster's Overview on Evidence

There is a document posted on Moodle under "Course Materials" titled "Hamar Foster's Overview of the Law of Evidence". This overview was prepared by Professor Foster for students to consult throughout the course. Please do so. If you notice any typos, or have any questions or suggestions for improvement, please provide them to me for Professor Foster. It is an on-going process and he welcomes feedback and corrections.

Time limitations will inevitably prevent us from having an in-depth discussion about every case, legislative provision, or other assigned reading. However, students are expected to be familiar with all of the readings as posted on Moodle, all of which are examinable.

Recommended Text:

Paciocco, David M. and Lee Stuesser, *The Law of Evidence*, 6th ed (Toronto: Irwin Law, 2011).

This is a very useful resource. There should be some copies of it at the bookstore and on reserve in the Library. There should be a number of used copies of the 5th edition available. The normal caveats about things being out of date apply.

Reference Materials

Reference materials have been placed on reserve for this course accessible at the Reserve Desk in the Priestly Law Library.

Communication and other Administrative Matters

E-mail and Communication: Please check your e-mail regularly for notices about class cancellations, reading assignments, or other matters. Please feel free to e-mail me at the above email address.

Taping: If you wish to tape a lecture please speak to me beforehand.

Laptops: You do not need to use a laptop computer in class to succeed in this course. If you choose to take notes on a laptop, please do so in a manner that is respectful of those seated around you. Please do not display materials on your laptop unrelated to the class.

Texting & Phone Calls: Please do not text or make phone calls in the classroom during class time. If you must place a call or text, please discreetly leave the classroom.

Method of Evaluation

The final grade for this course will be based on **two** components, as follows:

25% Group Video Presentation Project

Students will work in groups of 4 to 5 to create a presentation with a video on an assigned evidence topic. The student groups will each be assigned one or two practitioners who will work with the students. These assignments will be posted once the course drop deadline has passed.

75% Final Exam

There will be a three-hour final exam comprising the remaining 75% of the final grade in this course.

The exam is currently scheduled for Friday, April 13, 2012 at 9:00 a.m. This date and time is subject to change -- it is your responsibility to check final exam schedule for the date, time and location of the exam. The exam will be qualified open book which means that you can bring your notes, summary/outline, and the required course materials into the examination room. No texts, electronic devices or library materials are permitted in the examination room. Laptops are only permitted when being used in conjunction with the exam-writing software.

The final examination will be marked on a letter grade system. The percentage ranges for the various letter grades are set out below.

Code names will be used for the final exam. Please obtain your final code names from the Main Office in advance.

Grading

The University of Victoria marks on a 9.00 point scale. The following are the relevant equivalencies between numerical and letter grades at the University of Victoria Faculty of Law:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description	
A+	9	90-100%	Exceptional	Grades in this range are normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	Outstanding	
A-	7	80-84%	Excellent	
B+	6	75-79%	Very Good	Grades in this range are normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	Good	
B-	4	65-69%	Solid	

C+	3	60-64%	Satisfactory	These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	Minimally Satisfactory	
D	1	50-54%	Marginal	A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory	

Classroom Climate

An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. For reference, you may wish to consult the University's [Discrimination and Harassment Policy](#).

Academic Regulations

Students will wish to visit the [Associate Dean's webpage](#) at to familiarize themselves with policies and guidelines specific to the Faculty of Law.

Students should obtain and review all regulations and policies contained in the [University of Victoria Calendar, 2011-2012](#), both generally and specifically for the Faculty of Law.

The [Undergraduate Academic Regulations](#) of the UVic Calendar set out the University's expectations about attendance and assignments. Additional expectations of The Faculty of Law can be found on the [Academic Regulations](#) page of the Faculty website.

Academic Integrity

Academic integrity is expected of all participants in the university community. It is a serious academic offence to engage in plagiarism or other forms of academic dishonesty, or to assist others in doing so. You should familiarize yourself with the University's Policy on Academic Integrity set out in the University Undergraduate Calendar. The [policy on academic integrity](#) can be found on the university website.

If you have any concerns or questions, or require clarification, do not hesitate to contact the instructor or the Associate Dean.

Accommodation, Health Concerns, and Counseling Services:

If any issues arise during the course of the term that may affect your ability to complete course requirements or meet deadlines, it is your responsibility to contact me and/or the Associate Dean as soon as reasonably possible to discuss available supports and possible accommodation.

Accommodation for Students with a Disability:

There are support systems, resources, and forms of accommodation available to students with a disability. If you wish to access any of these supports, resources or accommodations, I encourage you to contact the Associate Dean or the [Resource Centre for Students with a Disability](#) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances:

The University of Victoria and the Faculty of Law have [policies](#) guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday or observance. If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday or observance, please speak with me (or the Associate Dean) and we will be pleased to work out some satisfactory form of accommodation.

January 2, 2012