Syllabus & Course Information
(1/10/07 Revision)

Class Hours: Tu, Th. 10:40-12:10
Room: 1550

Course Materials
MUELLER & KIRKPATRICK, EVIDENCE UNDER THE RULES (5th ed. 2004, Aspen Publishers);
JONES, ROSEN, WEGNER & JONES, FEDERAL CIVIL TRIALS AND EVIDENCE (STUDENT EDITION) (2006,
The Rutter Group).

Bound copies of the Federal Rules of Evidence (FRE) with Advisory Committee Notes will be
provided to you (courtesy of The Rutter Group). Although Volume 2 of the Jones, Rosen, Wegner
& Jones (JRW&J) book contains the Federal Rules of Evidence, it does not contain the Advisory
Committee Notes, and it is also quite a load to bring to class. Just bring the Mueller & Kirkpatrick
(M&K) book and the Rules booklet to class (unless you need the exercise of bringing JRW&J).

TWEN Site
There is a TWEN site for this course. You should register on the site and provide an e-mail address
that you check regularly in case I need to make announcements or provide additional materials.

Class Preparation and Attendance

In order for students to gain the maximum benefit from this course, it is necessary that all students
attend class regularly and that all students be prepared for class. As a result, I reserve the right to
raise a student’s grade by one step (e.g., from a B to B+) for exceptional participation in class
discussions. I also reserve the right to lower a student’s grade by one step for poor attendance, lack
of preparation, or refusal to participate in class discussions. In addition, frequent unexcused absences
(more than 6) may result in the student being involuntarily dismissed from the course. A sign-in
sheet will be circulated every day, which you should sign. (Signing someone else’s name or having
someone else sign your name is considered academic dishonesty and could result in a student’s not
being permitted to become a member of a state bar.)

I understand that there will be rare occasions when lack of preparation is unavoidable. Therefore,
on no more than three occasions during the semester, each student may notify me in writing prior
to the beginning of class that he or she has not prepared the assigned material for the day. No
explanation of the cause of the lack of preparation is necessary. That student’s lack of participation
will be excused, but he or she may still be called on with respect to questions not requiring prior
preparation. Exercising this option will not prejudice the student’s grade in any way (including
eligibility for an increase in grade for exceptional participation). Other than as described above,
students may not elect to “pass” when called upon to participate in class discussions.
If a student misses more than four (4) classes, the student’s grade will be lowered by one-half step (e.g. from B to B-). If a student misses more than six (6) classes, the student will be excluded from sitting for the final exam. The reason for the absences is irrelevant under this policy, and there will be no exceptions to it. If you are required to miss a class, for whatever reason, that counts as one of the permitted absences.

As a courtesy to all, please turn off cell phones and beepers so that they do not disturb the class.

**Examination**

There will be a closed book final examination at the conclusion of the semester, which will account for the entire course grade, subject to adjustment for class participation as described above. You will be provided a copy of the Rules (without the Advisory Committee Notes) at the exam. You may not bring anything to the exam, including your text, class notes, or Rules supplement.

**Taping of Class Sessions**

Taping class sessions is not permitted absent satisfaction of University policy for disabled students or for students missing class for religious observances. If you fall into one of those categories, you should speak with me in advance.

**Assigned Seating**

In order to facilitate classroom discussion, students will be assigned regular seats. A seating chart will be circulated on Thursday, January 10, so students should occupy the seat on that day that they intend to occupy for the semester. Students should sit in their assigned seats during every class.

**Office Hours**

My office hours are Tuesday and Thursday 3:00-3:45, Wednesday, 10:30-12:00. If these times are inconvenient for you, you are welcome to schedule an appointment during other hours. I am generally in (or around) my office most days. You are welcome to come see me in my office at any time without an appointment.

**Assignments**

The following is an estimated schedule of the materials to be covered during the semester. It is a fairly ambitious set of readings, and we may well get behind, in which case I will issue a revised syllabus.

Please note that we will not be covering the entire book. I may cover some of the material in omitted chapters in class, but you are responsible only for the materials from the omitted sections that I actually cover. The readings in JRW&J are intended to provide some “black letter” structure.
Because that book is not tied to the casebook, there is some material in the JRW&J book that is not covered in M&K. Unless I tell you otherwise, you are NOT responsible for material in the JRW&J readings that is not contained in M&K. However, with respect to the assigned readings in M&K, you are responsible for those materials irrespective of whether they are actually discussed in class.

The classroom discussion will revolve primarily around the cases and problems. You should be prepared to discuss both in class.

Other written materials may be distributed from time to time. Needless to say, you are responsible for any handout materials just as if they were contained in the case book.

<table>
<thead>
<tr>
<th>Date</th>
<th>M&amp;K Pages</th>
<th>M&amp;K Probs</th>
<th>JRW&amp;J ¶¶</th>
<th>FRE *(Amended *06)</th>
<th>Material</th>
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<tbody>
<tr>
<td>1/9, 1/11</td>
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<td>51-71</td>
<td>2A-2C</td>
<td>8:100-8:212</td>
<td>401-402</td>
<td>Chapter 2: Relevance: Logical Relevance <em>(Old Chief (I))</em></td>
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<td>2D-2H</td>
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Chapter 7: Direct and Cross Examination Revisited (Baker, Julian)

Chapter 13: Foundation & Authentication (Johnson, Howard-Arias, Bagaric, Biggins, Pool)

Chapter 13 (cont'd): Self-Authenticating Exhibits, Demonstrative Evidence

Chapter 5: Relevance Revisited: Character Evidence: Prior Acts; Character in Sex Offense cases; Habit & Routine Practice; Remedial Measures (Tuer); Settlement Negotiations; Plea Bargaining; Payment of Medical Expenses; Insurance Coverage

Chapter 8: Impeachment of Witnesses (Abel; Manske Lipscomb, Luce, Webster)

Chapter 8: Impeachment (cont'd): Harris, Jenkins, Havens, Medical Therapy Sciences)

Chapter 3: Hearsay

Cain, Check
Chapter 3: Hearsay (cont’d):
State of Mind; Hearsay & Nonhearsay

Lying and hearsay

Review “Hearsay Quiz”: (Some questions may be on final exam; I will not give out the answers in class)

Chapter 4: Hearsay Exceptions:
Prior Inconsistent Statements (Smith); Prior Consistent Statements (Tome); Prior Identification (Motta)

Chapter 4: Hearsay Exceptions (cont’d):
Admissions (Bruton, Hoosier, Doyle)

Co-conspirator Statements (Bourjaily), Present Sense Impressions & Excited Utterances (Nuttall, Iron Shell)

Chapter 4: Hearsay (cont’d):
State of Mind, (Hillmon, Pheaster); Statements to physicians (Blake), Past Recollection Recorded (Scott), Business Records (Petrocelli, Norcon, Inc.), Public Records (Baker)

Learned Treatises
Spring Break
3/14, 3/16
(Spend entire week thinking about Evidence)

Week 10
3/20, 3/22
301-346 4L-4N 8:3025 - 8:3136 804
Chapter 4: Hearsay (cont’d):
Exceptions requiring unavailability of declarant
(Barber, Lloyd, Williamson)

Week 11
3/27, 3/29
346-395 8:3140 - 8:3191 807
Chapter 4: Hearsay (cont’d):
The “Catchall” Exception and some minor exceptions (Weaver);
Constitution as a bar against hearsay (Roberts, Crawford, Wright)

Week 12
4/4, 4/5
595-651 9A-9E 8:1375 - 8:1736 701-706
Chapter 9: Opinion and Expert Testimony:
(Daubert, Kumho Tire); Modern Science in the courtroom

Week 13
4/10, 4/12
816-830 12G-H 8:3725-8:3821
Spousal Privileges (Trammel, Estes)

Tuesday, May 1
9:30 a.m.

Exam (Tentative Date) Be sure to check final examination schedule when released by Records Office.