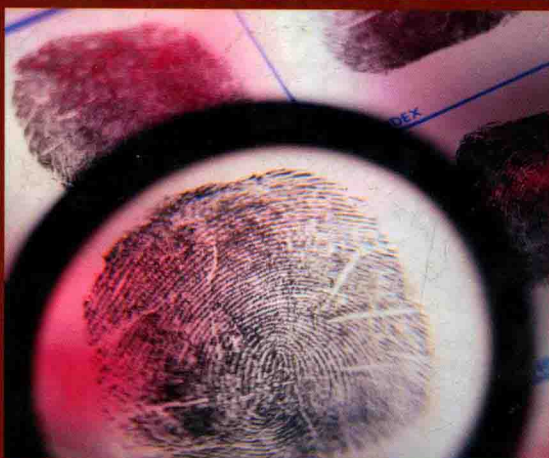
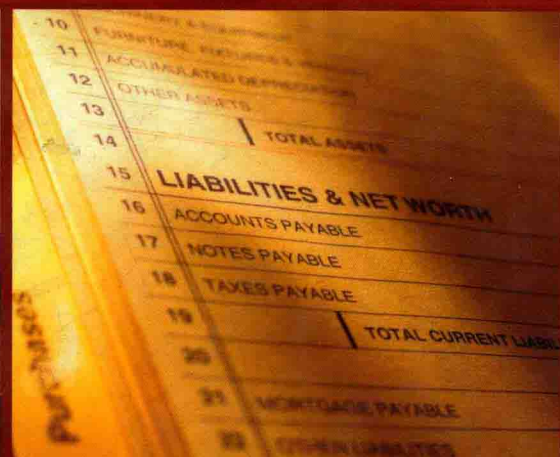


LAWS *of* EVIDENCE



THOMAS BUCKLES

LAWS OF EVIDENCE

Thomas Buckles, M.A., J.D.
Woodbury College

LAWS OF EVIDENCE

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DELMAR LEARNING

***This book is dedicated to Lou Buckles.
“Sunday’s coming.”***

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PREFACE

Most law schools tend to prepare aspiring attorneys through the “case” method of study. In contrast, many undergraduate courses generally prepare other legal professionals, including those in paralegal fields who will be directly assisting the attorneys, and those in criminal justice who will be enforcing the laws, through an emphasis on “textbook” study. My purpose in writing this book is to combine these two methods, providing a readable text with interesting cases, a rich comparison of relevant federal and state rules, a wide variety of learning exhibits and features, and helpful evidentiary checklists. The mission of this book is to combine the principles of competency-based learning with the strengthening of essential skills necessary to effectively turn that learning into practice. It is designed for students in paralegal, criminal justice, pre-law, and legal studies; as well as those learners who just want to know more about the laws of evidence.

WHY STUDY EVIDENCE LAW?

Evidence law will teach you what can and cannot be admissible as evidence, and why. The most critical part of any legal action, civil or criminal, is the evidence presented to prove or disprove the facts at issue in the case. Not all evidence, however, is admissible at trial. Numerous laws and rules may exclude or limit evidence, even when that evidence may be important to the case. Success or failure depends on being able to recognize, gather, and present relevant, admissible evidence. Paralegals, investigators, criminal justice and legal personnel alike must all have an understanding of the laws of evidence and the rules they will have to follow in proving or disproving a case.

FEATURES OF THIS BOOK

This book is designed to provide a readable format, written to convey the “excitement” of the law. It is packed full of actual cases, evidentiary checklists, and exhibits to enhance reading and learning, bring the law “to life,” and help the reader better understand evidence law and how it is used in the legal system. Chapters examine *what* the law is—providing clear definitions; *where* the law came from—exploring the rich history behind the law; *when* and *how* it is used today—comparing different laws and usage; *who* uses it—the players in the legal process; and *why*—including the public policy reasons behind the law, and how this public policy influences the gathering of evidence.

One of the many unique features of *Laws of Evidence* is the expansive use of interesting and relevant, real-life cases, many drawn from recent headlines. These cases are presented to help students better understand evidentiary rules by seeing how they are applied and analyzing the court’s reasoning behind their decision. Another unique feature of *Laws of*

Evidence is the wealth of pedagogical features that emphasize the development and strengthening of essential skills necessary for students using evidence law, and allow for students to apply and practice what they learn.

Presented in a student-friendly, understandable format, each chapter will begin with an outline of what will be covered, along with an **Introduction** to the learning in that chapter. **Definitions** are provided along the margins throughout each chapter. At the end of every chapter, there will be a **Summary**, **Key Terms** section, and the **Web Sites** referred to or recommended.

Competency-Based Learning . . . Practice-Based Education

This book incorporates both *competency-based learning* and *practice-based education* principles. Each chapter begins by identifying a set of measurable **Learning Outcomes**. These outcomes may be met by demonstrating the **Learning Outcomes and Practice Skills Checklist** at the end of the chapter. To support this learning throughout the book, there are a variety of examples, sample laws from other states, exhibits, and illustrations. To help facilitate an understanding of what is learned, there are thought-provoking questions, case problems, exercises, and practical, hands-on applications in each chapter. These features not only reinforce learning, but also serve to strengthen and help assess competencies and essential skills. Included in each chapter are:

- **Critical Thinking Questions**
- **Legal Analysis and Writing Problems**
- **Legal Research Using the Internet Applications**
- **You Be the Judge Exercises**
- **Advocacy and Communication Skills**
- **Practice Applications**

Critical Thinking Questions challenge students to examine, discuss, and reflect on the laws and legal concepts covered in their readings. *Legal Analysis and Writing* applications require students to apply what they have learned to a case problem using a legal analysis method or analyze a court opinion using a case briefing format. *Legal Research* is emphasized by integrating it with the use of *Internet* skills. Students are given a series of research assignments on the Internet, designed to not only develop their legal research, but their technology skills as well. As an added bonus, many of these assignments ask the student to research and compare his or her own state laws with those studied in the text, ensuring a more rounded understanding of the law, but also a knowledge of the considerable resources available to find out more. Each chapter includes *You Be the Judge* exercises that put the student in the role of the trial judge who has to rule on the admissibility of evidence. The student must then explain the ruling. At the end of every chapter is an *Advocacy and Communication Skills* assignment, calling for students to select a legal issue, then develop and present an oral persuasive argument advocating for one side or the other of the issue. Finally, each chapter has a *Practice Application* that strengthens the student's competencies and skills by requiring students to apply what they have learned in solving a case problem or preparing evidence for trial.

Don't Forget the Appendix

But wait, there's more! Don't forget to look through and use the materials in the Appendix. Here, you will not only find the **Federal Rules of Evidence**, but formats for all of the practical applications used throughout the book, including:

- **IRAC Method of Legal Analysis**
- **How to Brief a Legal Case**
- **Advocacy and Persuasive Arguments**
- **Thinking Law—Thinking Like a Lawyer**

ACKNOWLEDGMENTS

Anyone who works a full-time job and tries to tackle an additional major project, like writing a book (or raising children), can attest to the importance of family support. It is an understatement to say that I could not have written this book without the support and encouragement of my family. My wife, Lou, not only balanced her own job and college teaching, but was my “guardian” and best friend throughout this whole process—ensuring me the time to write without too many distractions. One of those distractions, my son, Cris, called or visited every night to offer motivating words of encouragement and to ask about my progress (“Are you done yet?”). I probably could have completed this book much sooner if he hadn't called so much . . . but I love him for it. My wonderful daughter-in-law, Bethany, should get a medal for her patience and ability to plan our family get-togethers around my writing schedule. A very special thank you goes to four little grand, no, GREAT kids! Thank you, Laura, Cristopher, Jacob, and Jessica, for your patience with me while I was working. I love you all and will try my best to make up for all I have missed with you over the past few months—especially the reading and sledding. Thanks to my sister-in-law, Maureen Currier, who worked on the original draft some years ago when I first began gathering material for an evidence course. It was her idea to turn this into a book. Here it is, Mo. Thanks to the paralegal students and all of the staff at Woodbury College in Montpelier, Vermont—one of the leaders in competency-based learning and putting learning into “action.” Thanks also to the Community College of Vermont for allowing me time to complete this book.

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Elizabeth Church
Lake Superior State University

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