



# COURSE DESCRIPTION - FACULTY OF LAW

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**COURSE NUMBER:** LAW 453:X01      **COURSE NAME:** EVIDENCE

**PREREQUISITE COURSES:** NONE

**PREREQUISITE FOR:** ADVOCACY, ADVANCED EVIDENCE

**CREDITS:** 3   **HOURS PER TERM:** 3   **TERM:** 2<sup>nd</sup>      **MAXIMUM ENROLLMENT:** 60

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**PROFESSORS:** SHAWN BEAVER

**METHOD OF PRESENTATION:**      LECTURE       SEMINAR      OTHER

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## **METHOD OF EVALUATION:**

The **primary** method of evaluation in this course is an exam worth 100% of the Grade.

Examination will be:    XX closed book

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## **COURSE DESCRIPTION:**

An Introduction to the Law of Evidence for the Litigator

Sources of the Law of Evidence – Constitutional, Statutory, Common Law Sources

Burdens and Standards of Proof

The Criminal Standard of Proof – Beyond a Reasonable Doubt

The Civil Standard of Proof – Balance of Probabilities

Onus in a Civil and Criminal Case; Shifting Burdens

The Air of Reality Standard; the “some evidence” standard; Legal v. Evidential Burden

Types of Evidence – Real Evidence, Testimonial Evidence, Judicially Noticed Evidence, Presumptions, Admissions, Demonstrative Evidence

Witnesses – Competence and Compellability

Mental Incompetence v. Status Incompetence

Spousal Incompetence (v. spousal privilege)

Real Evidence – The Requirement of Authentication

Documents

Electronic Records

Photographs, Videotapes

Seized items

Charts, Graphs, Maps, Summaries

Judicial Notice – the test and procedure

Presumptions – of fact; of law; requirement of a basic fact; rebuttable and non-rebuttable presumptions; standard of rebuttal

The Basic Test for Admissibility – Relevance, Absence of an Exclusionary Rule, Probative Value v. Prejudicial Effect

Relevance: Relevance Defined

Relevance v. Probative Value (admissibility v. weight)

Exclusionary Rules: Hearsay – Defined; Traditional and Principled Exceptions

Character Evidence

Habit or Standard Practice

Similar Fact

Criminal Records

Character of Third Parties

Opinion Evidence – Expert and Lay Opinion

Rule Against Oath-Helping/Self-serving Evidence; Exceptions

Collateral Fact Rule

Rules for the Examiner in Chief; Rules for the Cross-examiner

Probative Value weighed Against Prejudicial Effect

Defining Probative Value and Prejudicial Effect

What is the test for exclusion? Does it vary per context?

Inferences – Modes of Relevance (direct v. circumstantial evidence)

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**\*SPECIAL COMMENTS:**

**EVENING CLASS:**

**SPECIAL ATTENDANCE:**

**OTHER:**

**REQUIRED TEXTS (IF ANY):** Sopinka et al, The Law of Evidence in Canada (2<sup>nd</sup> ed.) (Butterworths, 2004) Student ed.