

EVIDENCE

Major Reading Assignment #1

It is always difficult to estimate how much reading we will cover in a given class session. Some Evidence topics require more depth and discussion than others and, although this need often can be determined in advance, it may depend on the nature of the discussion and understanding revealed in a given class session. In addition, some classes will largely address problems (either within the assigned reading or raised by video clips) as a way of checking understanding, which may cause us to cover only a minimal amount of reading or, less likely, may involve lecture, which may allow us to cover more of the assigned reading than usual.

In looking over the materials we will need to address this semester, my math indicates that, on average, we will need to cover approximately 25 pages per day, i.e. per two hour class session, over our twenty-three (23) class sessions together, from the Fisher text and supplement.

Keeping in mind this 25 pages per day average, and with the understanding that I will try to inform you after each class how much material we will likely cover in the next class session or two, the first major reading assignment -- which is from the Fisher text and statutory supplement (when the Fisher text instructs you to "Focus on FRE [#]," be sure to read the Rule in the Supplement), covers May's class sessions, is in the page order in which you should read it, and, for the reasons described above, is not attached to dates certain -- is as follows:

- I. Introduction (and Protecting Juror Deliberations from Scrutiny), pp.1-19;
- II. General Principles of Relevance, pp. 21-48 (Problems 1.1 through 1.5 and 1.8 only); pp. 54-63 (from *United States v. James* up to, but not including Problem 1.9); pp. 65-94 (from and including Problem 1.11 up to the end of the chapter);
- III. Specialized Rules of Evidence, pp. 95-100 (up to, but not including, *Tuer v. McDonald*); pp. 110-113 (from Problem 2.2 up to, but not including "B. Compromise Offers and Payment of Medical Expenses"); pp. 117-137 (from Notes on Rule 408 up "D. Pleas in Criminal Cases") (skip problem 2.7); p. 144;
- IV. Character Evidence, pp.145-180 (up to but not including *United States v. Stevens*) (skip problems 3.4 and 3.6); pp. 189-190 (Problem 3.10 only); pp. 193-195 (from Absence of Accident up to, but not including, paragraph 6 (Doctrine of Chances)); pp. 201-207 (from the *Huddleston* Standard up to and including Focus on FRE 413, 414, & 415); pp. 218-252 (from Notes on Rules 413, 414, & 415 up to and including "Focus on FRE 406" but not including the *Halloran* case);
- V. Impeachment, pp. 257-261 (up to and including "Focus on FRE 404(a)(3), 607 & 608, but not including the *Whitmore* case); pp. 270-276 (through and including "Focus on FRE 609"); pp. 278-299 (from Rule 609 and Defendant Testimony up to, but not including, "Rule 609: Case Notes on Appellate

- Review”); pp. 303-317 (from Wissler and Saks article through and including the end of the chapter); and
- VI. The Rape Shield Law, pp. 318-320 (up to, but not including *State v. Sibley*); pp. 322-346 (from John Henry Wigmore excerpt up to, but not including, paragraph b, (Narrative Integrity) on p. 347)

Although we will not cover anywhere near all of the Problems within the assigned pages in class, please be prepared to discuss all Problems within those pages unless otherwise indicated. By preparing responses to the problems, and formulating responses to the evidentiary issues raised by the video clips, you should be able to thoroughly assimilate the material – both for general purposes and in preparation for the final exam. I will provide suggested answers to the problems covered by the reading on an approximately weekly basis.

One last point. Stay ahead of the reading assignments – but not by too much. Falling behind will leave you unprepared for class and may cause you to dig a hole from which you may not be able to get out. Conversely, getting too far ahead in the reading, although far less of an evil than falling behind, will cause you to either reread the assignment more times in order to be prepared for class (which is okay but may unduly multiply your work) or, failing that, not be prepared for class (which is obviously not okay).