



**FLORIDA A & M UNIVERSITY
COLLEGE OF LAW**

Evidence

Course 6330 Class 3907 Sec. 302

M, W 6:00 – 7:40 p.m.

Professor S. N. Persaud

- Text:** A Practical Guide to Federal Evidence 11th Ed., Bocchino & Sonenshein, Lexis
Strongly Recommended: Learning Evidence 3rd Ed., Merritt and Simmons, West
- Recommended:** Florida Evidence, West Publishers
Evidence: Examples & Explanations, Aspen Publishers
Commentary on the Rules: <http://www.law.cornell.edu/rules/fre>
- Objective:** The objective of this course is to introduce you to federal evidence law and develop your skills in assessing evidentiary issues in various situations. We will examine the nuances of this area of practice, learning the basics at the federal level, as well as the Florida arena.
- Attendance:** Class attendance is mandatory. You are allowed the maximum number of administrative absences according to the most current student handbook as of the start of class in order to qualify for a final grade. Being late to class may result in an unexcused absence. *The right is reserved that leaving class while it is in session may be considered and designated as an absence.* You are solely responsible for ensuring that you have received credit for your attendance by signing the roll during class. Pay attention to signing the roll, as it is presumed you are absent if you fail to sign the roll. Any issue with regard to a failure to sign the roll or an unsigned roll may result in an automatic ten (10) point deduction from your final grade.
- Grading:** The course will be graded according to your performance on the final and the College of Law's requirements. You are responsible for knowing all the material in the texts and the federal evidence code. The recommended texts are suggestions for learning enhancement, but are not required for class.

Devices: Taping of the class is not permitted, including audio, digital, or other means. Use of the Internet or a cell phone is not permitted during class through any means for any reason. *Such a practice is considered and designated as an absence.*

Participation: There is no talking during class unless recognized. Preparation and Participation is a mandatory requirement of this course. You are responsible for reading and critically evaluating the material, consulting with other sources if necessary for such understanding. There is no direct allocation of participation points toward your final grade. However, you may receive a grade level reduction from your final grade for being unprepared or failure to satisfactorily participate, including in-class assignments.

Rule Exercises: During the semester, practical hypotheticals will be assigned, and you are responsible for discussing the problem. You will receive a grade level reduction per instance for failure to participate, or lack of preparedness, (in other words, if your grade on the exam is a B, your final grade will be a B- or if your exam grade is a B-, your final grade will be a C+).

Policy Statement on Non-Discrimination: It is the policy of Florida Agricultural and Mechanical University to assure that each member of the University community be permitted to work or attend classes in an environment free from any form of discrimination including race, religion, color, age, disability, sex, marital status, national origin, veteran status and sexual harassment as prohibited by state and federal statutes. This shall include applicants for admission to the University and employment.

Academic Honor Policy: The University's Academic Honor Policy is located in the FANG Student Handbook, under the Student Code of Conduct- Regulation 2.012 section, beginning on page 55-56.

ADA Compliance: To comply with the provisions of the Americans with Disabilities Act (ADA), please advise the instructor of any accommodations required to insure participation in this course. Documentation of disability is required and should be submitted to the Learning Development and Evaluation Center (LDEC). For additional information please contact the LDEC at (850) 599-3180.

Schedule: You are responsible for being prepared for each week's reading. This book is relatively easy to read and not very lengthy, which gives you the opportunity to focus on learning the rules and using your evidentiary skills. However, we will not discuss any future material during any lecture as it may lead to confusion with the current material. The schedule below is an outline, which may be revised as the course progresses, so it is your responsibility to stay ahead of the material covered in the prior class lecture:

1ST WEEK

BOCCHINO CHAPTER 1

Objections

Offers of Proof

Competency to Testify

FirstHand Knowledge

BOCCHINO CHAPTER 2 Refreshing Present

Recollection

BOCCHINO CHAPTER 1 Judicial Notice

BOCCHINO CHAPTER 1 Presumptions

MERRITT CHAPTERS 1-5, 14, 16, 59, 71, 72

2ND – 3RD WEEK

BOCCHINO CHAPTER 1 Privileges

MERRITT CHAPTERS 66-68

3RD – 4TH WEEK

BOCCHINO CHAPTER 3

Relevance and Exclusion
Conditional Admissibility
Prejudice, Confusion, or Waste of Time

MERRITT CHAPTERS 6-8, 34

4TH – 5TH WEEK

BOCCHINO CHAPTER 3

Rule of Completeness
Limited Admissibility
Habit and Routine Practice
Subsequent Remedial Measures
Compromise Offers and Negotiations

MERRITT CHAPTERS 9-10, 24, 31,

5TH – 6TH WEEK

BOCCHINO CHAPTER 3

Offers to Pay Medical and Similar Expenses
Guilty Pleas and Related Statements
Insurance against Liability

BOCCHINO CHAPTER 4

Original Document Rule
Authentication of Instruments, Telephone
Conversations and Voices

MERRITT CHAPTERS 11-13, 69-70

6TH – 7TH WEEK

BOCCHINO CHAPTER 6

Lay Opinion Evidence
Expert Opinion

MERRITT CHAPTERS 60-65

7TH - 8TH WEEK

BOCCHINO CHAPTER 7

Impeachment: Generally
Impeachment of Memory
Impeachment of Perception
Impeachment by Bias, Prejudice, Interest,
and Improper Motive
Impeachment by Character Evidence

Impeachment by Specific Instances
Prior Conviction (Criminal & Civil Cases)
Prior Inconsistent Statements
Cross-Examination: Generally & Scope

MERRITT CHAPTERS 17-23

9TH – 10TH WEEK

BOCCHINO CHAPTER 8

Character Evidence: Generally
The Accused or Victim in a Criminal Case
Other Acts, Crimes, or Wrongs
Cases Involving Sexual Assault or Child
Molestation Cases
Prior Sexual Activity of Alleged Victim
(Criminal & Civil Cases)

MERRITT CHAPTERS 25-33

10TH – 11TH WEEK

BOCCHINO CHAPTER 2

Leading Questions
Ambiguous Questions
Argumentative Questions
Asked and Answered
Assuming Facts Not in Evidence
Compound Questions
Misquoting the Witness
Narratives

Nonresponsive Answers

BOCCHINO CHAPTER 5 Exhibits

BOCCHINO CHAPTER 9

Hearsay: Generally
Confrontation Clause Issues
Hearsay within Hearsay
Attacking and Supporting the Credibility of
a Hearsay Declarant

MERRITT CHAPTERS 35-38, 44, 58

11TH – 12TH WEEK

BOCCHINO CHAPTER 9

Nonhearsay Prior Statements
Nonhearsay Opposing Party Statements
Present Sense Impression
Excited Utterance

MERRITT CHAPTERS 39-40, 54-55

12TH – 13TH WEEK

BOCCHINO CHAPTER 9

Then Existing Mental, Emotional Physical
Statements for Purposes of Medical
Recorded Recollection

MERRITT CHAPTERS 41-43

BOCCHINO CHAPTER 9

Records of Regularly Conducted Activity
(Business Records)
Absence of Entry in Business Records
Public Records and Statements
Absence of Public Record
Records of Vital Statistics
Records of Religious Organizations
Marriage, Baptismal, Similar Certificates
Family Records
Records of Documents Affecting an Interest
in Property
Statements in Documents Affecting an
Interest in Property
Statements in Ancient Documents

Market Reports and Commercial
Publications
Learned Treatises
Reputation Personal/ Family History
Reputation Concerning Boundaries or
General History
Reputation as to Character
Judgment of Previous Conviction
Judgment as to Personal, Family or General
History, or Boundaries

MERRITT CHAPTERS 45- 47

13TH – 14TH WEEK

BOCCHINO CHAPTER 9

Requirement of Unavailability
Former Testimony
Statement under Belief of Impending Death
Statement against Interest
Statement of Personal or Family History
Forfeiture by Wrongdoing
Residual Exception

MERRITT CHAPTERS 48-52, 56