

UNIVERSITY OF DENVER
STURM COLLEGE OF LAW

EVIDENCE
SUMMER SESSION, 2016
MID-TERM EXAMINATION

PROFESSOR GALVES
JUNE 27, 2016
10:30 AM – 12:00 NOON

ONE ESSAY EXAM QUESTION WITH TWO SUB-PARTS
(1 HOUR AND 30 MINUTES TOTAL TIME)

SPECIAL EXAM INSTRUCTIONS

PLEASE READ THE SPECIAL EXAM INSTRUCTIONS BELOW CAREFULLY!

1. Please **Write your student exam number**: (1) on your Exam (2) type it on the first page of your exam using your laptop computer (and you have registered with Exam4).
2. Answer according to the applicable Federal Rules of Evidence and/or applicable case law. This is a closed-book, closed note exam. You may use NO materials on this exam (You will be able to use any and all materials on the Final Exam only). You may outline your answers on the 2 pieces of scratch paper.
3. **YOU MUST SUBMIT YOUR LAPTOP ANSWERS, but you should keep the exam itself.**
4. The following schedule (10:30 p.m. to 12:00 noon) will be followed for this in-class testing day. (Monday, June 27, 2016).
5. The following schedule will be followed for the in-class testing:
10:30 pm – 12:00 noon (90 Min): Essay Mid-Term Exam (2 parts – “A” & “B”)
6. This mid-semester exam is worth **25% of your final grade.**
7. Please be sure to **keep your own time and budget your time** so you have enough time to answer each portion of each question.

8. To the extent you use case names, and/or the Federal Rules of Evidence, make sure you explain how they are applicable and why they might be controlling. **YOU NEED NOT PROVIDE RULE NUMBERS, OR CASE NAMES**, if you are more comfortable discussing evidentiary concepts contained in the various rules, and in case law.
9. Cover all reasonable arguments and state your reasoning as fully as possible within the time limit given. Note that implausible arguments or recognition of non-issues will **NOT** receive credit. Be sure to make necessary interrelationships between the rules, law, and facts. Be sure to consider strategic courtroom concerns, such as whether it would be a good idea not to object even if a party could otherwise do so under the rules, to the extent such concerns are significant and ought to be considered by an advocate.

The questions generally will be weighted based on the time suggested. But again, spend as much time as you deem necessary to answer the questions appropriately. Out of the 100 possible raw points, they breakdown as follows:

<i>Essay "A" (45 Minutes)</i>	<i>= 50 pts.</i>
<i>Essay "B" (45 Minutes)</i>	<i>= 50 pts.</i>

CLARITY OF EXPRESSION, CONCISENESS AND EFFICIENT ORGANIZATION OF YOUR EXAM ANSWERS ALL CONTRIBUTE TOWARD A GOOD SCORE. THEIR OPPOSITES DETRACT. GOOD LUCK.

FOR EACH OF THE FOLLOWING ESSAY QUESTIONS, ASSUME THE FEDERAL RULES OF EVIDENCE APPLY, AND ANALYZE THE PLAUSIBLE ARGUMENTS THAT WOULD BE PROVIDED BY EACH SIDE AND DISCUSS HOW AND WHY A JUDGE WOULD LIKELY RULE:

ONE ESSAY QUESTION WITH TWO SUB-PARTS

(10:30 am – 12:00 noon)

One day, Paul was driving his car, with his friend Sarah riding in his car, when they were hit at a traffic light intersection by a car that Donna was driving, with her boyfriend Bob riding in her car. Paul alleges that Donna was negligent (and drunk) and damaged his car in the accident. Right after the accident, Donna told Paul that if he did not sue her, she and Paul could go out on a date and she would make it “a lot of fun for him.” Paul smiled and then grabbed Donna sexually and tried to kiss her, at which point Bob, who had been watching, hit Paul in the face. The police immediately came to the scene and took statements from all witnesses.

Paul has been charged criminally with sexual assault, while Bob has been charged criminally, in the same trial, for assault and battery (the “Criminal Trial”). Paul is also suing Donna civilly for negligent driving, requesting property damage to his car; and Paul is also suing Bob civilly in the same case for assault and battery personal damages (the “Civil Trial”).

“Question A” below addresses the Criminal Trial; while “Question B” below addresses the Civil Trial.

QUESTION A – THE CRIMINAL TRIAL

Discuss whether the following items of evidence/testimony would be admissible. In your answers, address the strengths and weaknesses of all arguments supporting both admissibility and exclusion, and explain how and why a judge would likely rule.

- (1) The Prosecution, and Bob, attempt to introduce evidence that: (a) Paul has a violent temper; and, (b) Paul has sexually harassed women in the past with improper sexual comments.
- (2) The Defense attempts to introduce evidence that right after the accident, Sarah heard Donna offer sex to Paul if Paul would not report the accident to police.
- (3) After Paul attacks Donna for being a “drug addict” in his case-in-chief, the prosecution then presents evidence that Paul has a DUI conviction for driving with a 1.2% blood alcohol.

QUESTION B – THE CIVIL TRIAL

Assume the criminal trial ends in a mistrial. Discuss whether the following items of evidence/ testimony would be admissible in Paul’s Civil Trial against Donna (for property damages) & Bob (for personal damages). In your answers, address the strengths and weaknesses of all arguments supporting both admissibility and exclusion, and explain how and why a judge would likely rule.

- (1) Paul puts on testimony of Bob, given during the Criminal Trial, that Donna has a previous prostitution conviction.
- (2) Bob puts on evidence that Paul was the first to attack Bob because Paul took the first swing at Bob and then Bob merely defended himself. Paul then attempts to put on good character evidence about Paul in response.
- (3) Paul submits a police report (because the police officer is not there) indicating that Bob did not answer a question by police asking Bob whether Bob was the first to hit Paul.
- (4) Donna submits an affidavit submitted by Sarah stating that Paul is now taking “anger management classes” for his bad temper, after Sarah had testified that Paul was not violent or angry on the day of the accident.
- (5) Paul submits evidence that Donna has no automobile insurance.

**-END OF EXAMINATION-
PLEASE UPLOAD YOUR EXAMSOFT ANSWERS
IMMEDIATELY**