

LIBERTY AND JUSTICE FOR ALL (NOT JUST SOME)

A LESSON ON THE LAYMAN'S LAW SCHOOL PRESENTS: The Federal Rules of Evidence:

UNDERSTANDING THE RULES GOVERNING COURTROOM EVIDENCE.

- ### PRACTICAL TIPS FOR JURORS EVALUATING EVIDENCE
1. Stay Objective: Focus on the facts presented, not personal feelings or biases.
 2. Pay Attention to Relevance: Consider whether the evidence presented directly relates to the issues in the case.
 3. Consider Witness Credibility: Evaluate the reliability and consistency of each witness's testimony.
 4. Evaluate Expert Testimony Critically: Assess the qualifications of expert witnesses. (see our zine on Junk Forensic science).
 5. Understand direct vs. circumstantial evidence: Does it require you to infer to get to a conclusion.

Rule 101-102: Scope & Purpose

This establishes that the Federal Rules of Evidence apply to all proceedings in federal courts, with specific exceptions. These rules should be interpreted in a way to promote fairness, to minimize delay, and encourage the growth of evidence law to achieve accurate outcomes.

PRESUMPTIONS IN CIVIL CASES (Rule 301-302)

In certain situations, the burden of proof is shifted. A presumption requires the court to assume a fact is true unless the opposing party presents evidence to disprove it. Rebuttable presumptions can be challenged with evidence. Conclusive presumptions cannot be challenged.

Common Presumptions:

- Mail Delivery
- Ownership of property
- Negligence (Res Ipsa Loquitur)

Relevance & Admissibility (Rule 401-403)

Evidence is relevant if it has "any tendency to make a fact more or less probable than it would be without the evidence," and if that fact is "of consequence in determining the action."

This has a LOW threshold. Rule 403 excludes evidence for prejudice, confusion, or waste of time.

AUTHENTICATION OF EVIDENCE (Rule 901-902)

Evidence MUST be supported by sufficient proof that it is authentic. Common methods:

- Witness Testimony
- Comparison by an expert or the court.
- Distinctive Characteristics
- Chain of Custody

Some Evidence is self-authenticating like public documents, certified copies, Newspaper or printed articles that are widely recognized, business and electronic records notarized documents, etc.

State and Federal rules regarding authentication may differ.

Hearsay Rule (Rule 801-807)

Hearsay is an out-of-court statement offered to prove the truth:

- spoken, written, or non-verbal conduct

It is generally inadmissible

Exceptions:

- Present Sense Impressions
- Excited Utterances
- Medical Diagnosis
- Business Records
- Public Records
- Dying Declarations
- Former Testimony
- Statements Against Interest

- These rules protect certain communications from being disclosed in legal proceedings, preserving the confidentiality of specific relationships.
- Attorney-Client Privilege
 - Spousal Privilege
 - Adverse Testimonial Privilege
 - Confidential Marital Communication
 - Doctor-Patient Confidentiality
 - Psychotherapist-Patient Privilege
 - Clergy-Penitent Privilege
 - Fifth Amendment Privilege
 - Against Self-Incrimination
- These privileges ARE NOT absolute and have exceptions and limits.

PRIVILEGE (Rule 501)

PRACTICAL TIPS (cont.)

6. Look for corroboration: Give more weight to evidence by multiple independent sources.

7. Avoid Overemphasis on a Single Piece of Evidence: Consider all of the evidence as a whole vs. focusing on one element.

8. Be aware of prejudicial vs. probative value: Does this have value in deciding the case or is it emotionally charged?

9. Use Common Sense: Evaluate evidence in light of your every day experience and logical reasoning.

10. Follow the Judge's instructions.

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Opinion testimony must be based on personally observed data, provided experts in the field would reasonably rely on.

An expert may testify if:

- their knowledge, skill, experience, training or education qualifies them.
- their testimony will help the judge/jury understand evidence or determine fact.

In criminal cases experts CANNOT state defendant intent.

EXPERT WITNESSES (Rule 702-705)

A TIMELINE:

PRE-1970's: Evidence rules based in common law, which are inconsistent.

JAN 2, 1975: Federal Rules of Evidence become effective.

1997: Amendment to Rule 702 on expert testimony.

2000: comprehensive restyling complete to increase accessibility.

2006: Amendment for electronically stored information and inadvertent disclosure of privileged materials.

2020: Rule 404(b) clarified the disclosure requirements for evidence of other crimes, wrongs, or acts used to prove character.

The Advisory Committee continues to monitor legal developments and update rules as needed, addressing emerging issues.

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The determination of witnesses' competency is made by the judge at the time of trial.

A witness MUST have first-hand knowledge of the events they testify about, evidenced by proof.

Witnesses MUST declare they will testify truthfully by oath or affirmation.

A judge presiding over a case CANNOT testify as a witness in that same trial.

Jurors cannot testify as witnesses during the trial they are serving on.

ANY party, including the one who called the witness, may attack the credibility of a witness.

WITNESS COMPETENCE (Rule 601-607)

2020 Amendment to Rule 404(b): Prior Acts Evidence

Rule 404(b) of the Federal Rules of Evidence governs the admissibility of evidence regarding a person's prior crimes, wrongs or other acts.

Key Changes:

- Prohibition on using the evidence of prior bad acts to prove a person's character or propensity to commit a crime.
- Notice to a defendant to use non-propensity prior bad acts must be in writing.

JUDICIAL NOTICE (Rule 201)

This rule allows courts to accept certain facts as true without proof.

Examples:

- Historical Dates
- Scientific Facts
- Matters of Geography
- Political History
- Generally known Facts

This also applies to facts that can be determined from "sources whose accuracy cannot reasonably be questioned."

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BEST EVIDENCE RULE
(Rule 1001-1008)

The Best Evidence Rule governs the use of written, recorded, or photographic evidence in court. This ensures the original source of information is presented whenever possible to prevent inaccuracies or fraud.

Examples include providing metadata for digital evidence when authenticity is critical.