

*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

## **NATIONAL COMMITTEE ON ACCREDITATION**

**SYLLABUS**

**EVIDENCE**

**JANUARY 2010**

## EVIDENCE SYLLABUS

### MATERIALS:

The readings referred to in this syllabus as "C.B." can be found in the book, RONALD J DELISLE, DON STUART and DAVID TANOVICH, EVIDENCE: PRINCIPLES AND PROBLEMS, (8th ed), (Scarborough, Carswell [Thomson Professional Publishing], 2007).

The readings referred to in this syllabus as AT@ can be found in DAVID PACIOCCO and LEE STUESSER, THE LAW OF EVIDENCE (5<sup>th</sup> ed.);(Toronto: Irwin Law, 2008). You will see that recent developments in the law have overtaken Chapter 9, dealing with illegally obtained evidence. Students can obtain a copy of an up to date Chapter 9 by visiting [http://www.irwinlaw.com/content/assets/content-commons/521/LE5rev\\_09.pdf](http://www.irwinlaw.com/content/assets/content-commons/521/LE5rev_09.pdf)

There are other cases that will have to be secured online or through library facilities.

### READING LIST:

#### I. Introduction

CB 1 – 34; 411-415; 510-516  
T. c.1; c.13

#### II. Methods of Adducing Evidence

##### A. Formal Admissions

CB 335 - 343

##### B. Obtaining Evidence by Viva Voce Examination

###### Competence to Testify

CB 424 - 453

T. 398-405

###### Compellability

CB 454 – 458: 462-469

T. 406-411

###### Manner of Questioning

CB 528 – 535; 570 – 574 (top)

T. 411-416; 476-483

Refreshing Memory and Recorded Evidence

CB 535 – 545  
T. 416-426

Cross-examination

CB 551 – 565; 1056-1069  
T. 426-434; 453-455

Vulnerable Witness Protection

CB 547-551  
T. 476-483

C. Real Evidence

CB 390 - 411; 415 - 421  
T. 455-467

D. Views

CB 421 - 424  
T. 457-459

E. Judicial Notice

CB 370 - 388  
T. 467-476

F. Vulnerable Witness Protection

CB 433 -440; 547-551

**III. Admissibility**

A. The Basic Rule: Relevance, Materiality and Discretion

T. c.2  
CB 172-194

B. Character Evidence

Character generally

CB 201 – 211  
T. 48-51

Character of the Accused (Criminal Cases)

Bad Character

CB 230 – 237; 242- 271  
T. 50-83

Good Character

CB 215 - 229  
T. 83-92

Character of Third Parties (Criminal Cases)

CB 280 - 322  
T. 92-98

Character in Civil Cases

CB 211 - 215, 273 - 279  
T. 92-95

C. Hearsay Evidence and Exceptions to the Exclusion of Hearsay

The Hearsay Rule

T. 103-108  
CB 680 – 686; 692 - 694, 730 (*Khelawon* excerpt)

The Exceptions

CB 749 - 750

- The Principled Exceptions

T. 114-130 (general); 130-136 (*K.G.B.*)  
CB 700 – 710; 713 - 749  
*R. v. Blackman* [2008] S.C.J. No. 38

- Admissions by Opposing Party Litigants

CB 750 - 758; 791 - 803  
T. 147-160

- Declarations against Interest by a non-party

CB 806 - 812  
T. 161 – 165

- Dying Declarations

CB 813 - 814  
T. 165 - 167

- Business and Duty Exceptions

CB 814 - 825  
T. 167 - 174

- Former Testimony

CB 826 - 830  
T. 139 - 144

- Prior Convictions

T. 144 - 147

- Res Gestae Exceptions

CB 831 - 852  
T. 174 - 182

- Prior Identification

CB 690 - 694  
T. 136 - 139

D. Opinion Evidence

The Opinion Rule

CB 856 - 864  
T. 183-187

The Expert Witness

CB 869 - 891; 900 - 919  
T. 192 - 205

The Ultimate Issue Rule (Lay and Expert)

CB 919 - 922  
T. 189 - 192

Hearsay and Opinion Evidence

CB 922 - 936  
T. 211 - 213

The Presentation of Expert Evidence

CB 936 - 946  
T. 208 – 211; 213 - 215

E. Statements by Accused Persons in Criminal Cases

T. 281 - 285

Self - Incrimination Protection (Formal Proceedings)

CB 469 – 487, 499 – 510, 516 - 527  
T. 285 - 313

Rights to Silence - Informal Admissions and Confessions

T. 313 – 320  
CB 493 - 499

F. Common Law - Voluntariness, Operating Minds and Oppression

T. 320 – 337; 452 - 453  
CB 765 – 788; 487 – 493, 195-196  
*R. v. Spencer* [2007] S.C.J. No. 11  
*R. v. Singh* [2007] S.C.J. No. 48  
*R. v. H.(L.T.)* [2008] S.C.J. No. 50

Section 10(b)  
T. 346 - 348

Detained Persons

T. 337 - 346

The Principled Approach

T. 343 - 346

G. Illegally and Unconstitutionally Obtained Evidence

T. c.9 Updated, available at [www.irwinlaw.com](http://www.irwinlaw.com). The Chapter 9 that appears in the text has been rendered obsolete,  
*R. v. Grant* 2009 SCC 32  
*R. v. Harrison* 2009 SCC 34  
CB 190 – 194  
*R. v. Bjelland* [2009] S.C.J. No. 38

H. Privilege

CB 948 – 1025; 1032 – 1056 (re-read 1056 – 1080)

T. c.7

*Blank v Canada* [2006] S.C.J. No. 39

*Named Person v Vancouver Sun* [2007] S.C.J. No. 43

*Juman v Doucette* [2008] S.C.J. No. 8

**IV Evidence about other Evidence (Proving the Credibility or Lack of Credit of Other Evidence)**

A. Demeanour

CB 642 – 645

B. Discrediting Witnesses

Collateral Facts Rule

CB 565 – 570; 587 – 594, 599

T. 434 - 441

Opinion Evidence and Reputation about Credibility of Opponent=s Witness

CB 594 – 599, 612 - 614

T. 441 - 443

Prior Inconsistent Statements of Opponent=s Witness

CB 574 - 576

T. 448 - 451

Convictions and the Accused as a Witness

CB 599 - 612

T. 441, 444 – 447

C. Bolstering Your Own Witnesses

The Rule Prohibiting Bolstering

CB 614 - 628

T. 485 - 486

Expert Evidence Relevant to Credibility and the Rule against Oath-Helping

T. 487

Prior Consistent Statements, Exceptions and Narrative

CB 628 - 642

T. 488 – 501

*R. v. Dinardo* 2008 SCC 24 (paras 36 – 40]

Rehabilitating Your Own Witness

T. 501 - 503

D. Challenging Your Own Witnesses

CB 578 - 586

T. 503 - 518

**V. The Evaluation of Evidence**

A. Corroboration

CB 647 - 669

T. 520 - 525

**Canadian Publishers**

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**Internet Sites for Provincial Legislation**

[www.canlii.org](http://www.canlii.org)

This is a listing for all the provinces and is highly recommended

Ontario:

<http://www.attorneygeneral.jus.gov.on.ca/english/legis/>

British Columbia (Queen's Printer):

<http://www.bclaws.ca/>

Alberta (Queen's Printer):

<http://www.qp.alberta.ca/>

**Supreme Court Judgments:**

<http://scc.lexum.umontreal.ca/en/index.html>