

Empire College School of Law
Professor Kinnison
Evidence – Midterm
Fall 2013 Issue Outline

Essay Question #1

Ace's statement to Pat: hearsay, dying declaration, spontaneous utterance, confrontation.

Ace's arrest on the way to Disneyland: non hearsay consciousness of guilt.

Bullets from other bodies fired from Ace's gun: relevance, character evidence, non character to show absence of accident of mistake, malice, intent. See People v Carpenter, Ch. 3. 18, fn 10,

Expert Frank: hearsay re identity of fingerprint donor as Ace, bad character evidence from jail record, confrontation.

Wendy 1: double hearsay, exception for past state of mind of absent declarant used directly to show requisite intent, spontaneous utterance.

Wendy 2: hearsay, statement against penal interest.

Rob: relevance, character evidence re Vic, admission of conduct of V tending to exonerate Ace, hearsay, V's state of mind, intent, common plan.

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Essay Question #2

Pat 911 tape: spontaneous utterance exception to hearsay rule until Pat settled down, recent complaint non hearsay, official-business record.

Ollie testimony re Dan's truck: subsequent repair, consciousness of guilt limited purpose.

Ollie testimony re Dan's insurance statement: not probative of fault, limited purpose of showing knowledge a accident, adoptive admission of Ollie's question.

Ned: character evidence, non character purpose to show knowledge of intersection, habit.

Dan testimony: prior inconsistent statement that his insurance would take care of the accident, prior inconsistent statement of hiding the truck, non hearsay.