

Evidence Midterm Issue Outline  
Bruce Kinnison  
December 10, 2009

### **Essay #1**

Bob Transcript: Hearsay, former testimony exception. Unavailability. No Crawford or Bruton violation. Chad statement hearsay if for the truth, but arguably admissible as non-hearsay. Introduction of transcript.

Victoria testimony: Bob's statement arguably non-hearsay. False report of rape of Dan as 1103 (CA) crime victim's conduct which exonerates criminal defendant: common plan. FRE doesn't permit specific acts to show character traits.

Court records of Ace conviction: Admissible propensity character evidence in sex case or irrelevant.

Frank testimony hearsay if for the truth. Spontaneous utterance? State of mind? Admissible as recent complaint for non-hearsay purpose.

Fran: inadmissible hearsay and character evidence. Arguably admissible as non-hearsay and 1101(b) motive evidence. 352/403.

Dan: innocence arguably admissible per 1103 in CA, not in FRE. Information from police inadmissible hearsay.

### **Essay #2**

1. Ed testimony inadmissible as subsequent repair to show negligence in CA and FRE. Admissible in CA in products/strict liability.

2. Paul government report: Foundation laid? If admissible, only in federal as CA limits opinions to readily observable acts, events or conditions.

3. Irving statement: hearsay, spontaneous utterance, authorized admission, CA and FRE.

4. Ron: hearsay, state of mind to show future conduct of declarant and others, declaration of co-conspirators.

5. Skip testimony re Sam: relevance, hearsay, non-character (1101(b)) purpose to show Ron's knowledge