

EVIDENCE
FINAL EXAMINATION
PROFESSOR CALHOUN FALL 2005
GENERAL INSTRUCTIONS

1. You have **three (3) hours** to complete this exam.
2. This exam is **closed book**; no materials are allowed.
3. There are two parts to this exam.

Part I

- } Part I is to be answered on a separate ParScore answer sheet.
- } Part I consists of 35 multiple-choice questions.
- } Each question is worth two points.
- } Part I is worth a total of 70 points.

Part II

- } Part II is to be answered in blue books or typed. If you answer Part II in a blue book, please write on every other line.
- } Part II is worth a total of 35 points.

Part I: Consists of 35 multiple choice questions. Each question is worth 2 points.

Total for Part I: 70 points.

Special instructions for Part One:

You are to answer all questions according to the Federal Rules of Evidence unless the question indicates otherwise or unless a question of evidentiary privilege is raised - in which latter case, you should apply the California Evidence Code, unless the question indicates otherwise.

Part II: Consists of one essay question, which is worth 35 points.

Total for Part II: 35 points.

Special Instructions for Part Two:

You are to base your answers on the Federal Rules. However, in those areas where there are significant differences in the Federal Rules and the California Code, you should contrast how each would apply. In the area of privilege, you should base your answers on the California Code - but again you should note any material differences between California and Federal law.

Deal with all issues raised - even though you believe disposition of one is controlling.

5. Write your exam number on the exam envelope, all used bluebooks, at the top of this page, and on the ParScore answer sheet. **Do not use your name, student ID number, or Social Security Number on any exam materials.**

6. At the conclusion of the exam, return all test materials to the exam envelope and submit it to the proctor. Do not seal the envelope.

GOOD LUCK!

PART II ESSAY

Defendant is charged with assault of Victim with intent to kill. It is alleged that Defendant beat Victim with a metal baseball bat, inflicting very serious injuries. Defendant claims that he was acting in self-defense and was only defending himself after Victim attacked him with a knife. Both Victim and Defendant testified to their version of the facts.

Certain additional evidence was admitted by the court over objection. Discuss which, if any, of the following evidence was properly admitted. Set forth your reasons.

The prosecution offered the testimony of an emergency room doctor that just before he began to treat Victim for his injuries, he asked Victim what happened and Victim said, Defendant beat me with a baseball bat.

The prosecution then offered the testimony of Defendant's wife, who testified willingly that just before the fight between Defendant and Victim, Defendant said to her, Tell our son I've taken his baseball bat and am going to use it to teach Victim a lesson.

Defendant offered the testimony of Neighbor (Victim's next door neighbor) that in the past year Victim

- assaulted him (Neighbor) twice during arguments, injuring him severely each time;
- took a package that had been delivered to Neighbor's front porch and then denied having done so;

On cross-examination, Neighbor was asked whether he was having an affair with Victim's wife. Neighbor answered, Yes.

END OF EXAM