

**Final Examination
Evidence
Professor Rutberg
Spring 2007**

1. You have three (3) hours to complete this exam.
2. This exam is **closed book**; no materials are allowed, other than the binder you will be given containing the Federal Rules of Evidence and the California Evidence Code.
3. This examination has fourteen (14) pages. Please check to ensure you have all 14 pages.
4. There are two parts to this exam. **Part I: consists of 35 multiple choice questions. Each question is worth 2 points. Total for Part I: 70 points.** Please mark your responses to the multiple choice questions on the separate "ParSCORE TEST FORM" using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer.

Special Instructions for Part I: 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.** Please write your response in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments.

Special Instructions for Part II: You are to base your answers on the Federal Rules. However, in those areas where there are significant differences between 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 your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, each blue book, and the "ParSCORE TEST FORM." **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, including blue books, ParSCORE answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam will not be graded.

GOOD LUCK!

Part II: Essay (35 points)

Daisy is charged with murder of her husband, Victor. Incessant squawking from the couple's parrot alerted Nancy Neighbor who found Victor on the lawn bleeding, with a kitchen knife stuck in his chest. He was clutching several red hairs in his right hand. Nancy called 911 and an ambulance arrived within moments. Victor died en route to the hospital. Prosecution expert Dr. Science testified at trial that a microscopic comparison of the hairs found in Victor's hand with Daisy's hair revealed a match.

The following additional evidence was introduced at trial. Assume proper objections were made and discuss whether each piece of evidence listed below was properly admitted. Explain your reasoning.

1. Nancy's testimony offered by the prosecutor that the parrot said "Daisy did it!"
2. Nancy's testimony offered by the prosecutor that as she knelt by Victor's body he said, "I never should have trusted that red-haired woman. She did me in."
3. On cross examination defense counsel asked Nancy whether it is true that she suffers from paranoid schizophrenia and was involuntarily committed to a mental hospital last year. Nancy's answer was "yes."
4. On cross examination defense counsel asked Nancy whether it was true that she was convicted of misdemeanor trespassing in 2002. Nancy's answer was "yes."
5. Detective's testimony offered by the prosecutor that when he informed Daisy of her husband's murder, she laughed.
6. Testimony offered by the defense from Daisy's hairdresser, Vidal, that Daisy is bald, and that her red hair is actually a wig which he made for her from the hair of one of his other customers, Victor's girlfriend Lola.

END OF EXAM