Evidence
Evidence
Teaching Materials for an Age of Science and Statutes

EIGHTH EDITION

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Dedication

It is with extremely heavy hearts that we dedicate this latest edition to the memory of our late co-author, Erica Beecher-Monas. Erica enthusiastically volunteered to take on the role of lead editor for the Eighth Edition and was literally on the eve of putting the manuscript to bed when she passed away. We learned only after the fact that this woman of incredible energy, talent, intelligence, and expertise had been working from her hospital room to complete her chapters, not to mention submitting her latest scholarly articles to law journals at the same time. Through her dedication, hard work, keen eye, and sharp pen, Erica helped us all to make this edition our strongest yet. We will miss her very much, and will think of her each time we open these pages. We sincerely hope that she is proud of her new edition.
Preface to the Eighth Edition

This edition continues to emphasize the themes of expert testimony, scientific evidence, and statutory construction in the law of evidence. It also retains an interdisciplinary approach, referencing social science and psychology research where relevant to particular evidentiary doctrines. In addition, we hope that students and professors alike will appreciate a more concise, streamlined approach throughout the text.

The seventh edition came on the heels of the publication of the NAS report, Strengthening Forensic Science in the United States: A Path Forward (2009). Numerous courts cited that report as a basis for either excluding flawed expert testimony or at least restricting the definiteness of the expert’s final opinion. Similarly, this edition is going to press shortly after the President’s Council of Advisors on Science and Technology’s 2016 report, Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods (2016). That report is highly critical of such forensic disciplines as forensic odontology, firearms identification, and hair analysis. The reports were released at the same time that the Supreme Court and lower courts are scrutinizing the application of the Sixth Amendment Confrontation Clause to forensic reports. From the release of our first edition in ____, the intersection of science, evidence, and the Constitution has been one of the principal foci of this text. We shall continue to monitor developments at that intersection in future editions and supplements.

Another major focus of this text has been “legisprudence,” notably statutory construction. The seventh edition coincided with the 2011 “restyling” of the Federal Rules of Evidence. To be sure, each new rule was accompanied by an Advisory Committee Note asserting that “[t]here is no intent to change any result in any ruling on evidence admissibility.” However, particularly given the textualist approach that many judges take to statutory interpretation, it was probably inevitable that the restyling would have unintended substantive consequences. We are now beginning to see the impact of the Rules’ revised wording. Moreover, since the release of the seventh edition, several rules, including Rules 801 and 902, have been amended. Together with the restyling, those amendments confirm the student’s need to develop skill in statutory interpretation.

Finally, the eighth edition contains a number of changes the format of the text. To begin with, to tighten organization, we have merged some chapters. In addition, Carolina Academic Press has kindly allowed us to revert to our previous, preferred practice of having a pocket part supplement of the Federal Rules. That should make it easier for students to readily consult the text of relevant rules while reading the coursebook.
The seventh edition went to press after the departure of two coauthors, Edward (Ted) Kionka and Kristine Strachan. This eighth edition was completed shortly after the death of a third coauthor, Erica Beecher-Monas. We have dedicated this edition to the memory of Erica, who had volunteered to serve as its general editor. The loss of her leadership, insight, and enthusiasm made the preparation of this edition a genuine challenge. We also owe Professor Kionka and Dean Strachan a huge debt for their enormous contributions to the first six editions. Ted was one of the original coauthors, and he was the primary author of the excellent, comprehensive teachers’ manual that has accompanied this coursebook since its inception. For several editions, Kristine provided the impetus to shorten and simplify the text, forcing us to make the tough coverage choices. We hope that Erica, Ted, and Kristine would be pleased with this new edition, since in large part it still reflects their invaluable contributions.

RLC  
EJI  
JS
Acknowledgments

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Professor Imwinkelried thanks his administrative assistant, Ms. Jennifer Angeles, who helped prepare this edition. On earlier editions, he also gratefully acknowledges the help of his research assistants: Theodore Blumoff, Lucy Karl and Thomas Lammert; Glenda McGlashan and Nine Bell, his administrative assistants who worked on the sixth and seventh editions; the Washington University Law School secretaries who prepared the first edition manuscript: Ilse Arndt, Barbara Aumer, Jane Bettlach, Dora Bradley, Susan Hutchings, Mary Ellen Powers, and especially Mary Schelling; and third edition research assistants: Joseph deUlloa and David Kornbluh. Professor Imwinkelried dedicates his work to Cindy, Marie, Ken, and Kindra; his parents, the late Mr. and Mrs. John Imwinkelried; and his parents’ in-law, the late Mary Jane Clark and Lyman (Brownie) Clark.

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