



Federation of  
Law Societies  
of Canada

**NCA** National Committee  
on Accreditation

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# Syllabus **Evidence**

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Revised April 2025

Candidates are advised that the syllabus may be updated from time-to-time without prior notice.

Candidates are responsible for obtaining the most current syllabus available.



## Evidence

### LEARNING OUTCOMES

The learning outcomes are based on the outcomes expected of graduates of Canadian common law programs. They include the ability to:

- Identify the purpose of the law of evidence and how that purpose informs which evidence we admit and how we use it in the relevant system of adjudication;
- Provide some theoretical and social context to the rules;
- Critically evaluate the extent to which the rules of evidence can safeguard against wrongful convictions and biased decision making;
- Identify the basic foundational elements of the common law approach to the law of evidence;
- Effectively identify admissibility issues with respect to evidence including the application of a relevant exclusionary rule(s);
- Understand the role of discretion in the law of evidence;
- Effectively identify and critically assess the basic principles and rules governing the proof of matters and evaluation of evidence in adjudicative proceedings;
- Reason persuasively in the context of fact-finding; and,
- Apply the law to new facts.

### EXAMINATION

The function of the exam is to determine whether applicants can effectively demonstrate the learning outcomes expected of graduates from Canadian common law programs. To pass the examination, candidates are expected to identify the relevant evidentiary issues, select and identify the key Canadian cases and principles, and explain how the law applies on each of the relevant issues, given the facts presented. Candidates will also be expected to understand the process of fact-finding and demonstrate the ability to apply it to a given set of facts. Depending on the question, some critical reflection may also be required including identifying arguments based on the readings to address a systemic issue such as wrongful convictions or gender and racial bias. Those who fail to identify the key issues, or who demonstrate confusion on core legal concepts, or who merely list the issues and describe legal rules without demonstrating how they apply in the factual context presented will not succeed.



## **MATERIALS**

The readings referred to in this syllabus can be found in Don Stuart, David Tanovich & Lisa Dufraimont, *Evidence: Principles and Problems*, 14th ed. (Toronto: Carswell, 2024)

**The reading list starts on the next page.**



## READING LIST

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Nature & Purpose: <u>Bad Character</u> <b>(i)</b> <i>True Character Purpose</i> – Similar Fact Evidence & Third Parties	<b>(i)</b> 253-291 Additional Cases: <i>MAM v JPM</i> 2024 PECA 13 (paras 1-2; 29-36)
Nature & Purpose: <u>Bad Character</u> <b>(i)</b> <i>Rebuttal Evidence</i> <b>(ii)</b> <i>Relevant to a Material Fact</i> <b>(iii)</b> <i>Relevant to Credibility</i>	<b>(i)</b> 241-246 <b>(ii)</b> 225-232 <b>(iii)</b> 175-181 Additional Cases: <i>Saskatchewan v Racette</i> 2020 SKCA 2 (paras 1-45)
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The Exceptions	436-438; 462-477; 480-483; 489-491 Additional Cases: <i>MJL Enterprises v SAL Marketing</i> 2025 ONCA 120 (paras 1-2; 14-26) (admissions); <i>R v DB</i> 2024 ONCA 546 (paras 2-3; 6; 9; 19-36); <i>R v Gordon</i> 2022 ONCA 799 (paras 1-6; 46-53) (adoptive admissions); <i>R v Nurse</i> 2019 ONCA 260 (paras 1-6; 54-57; 66-76) (dying declarations); <i>Samuel v Chrysler</i> 2007 BCCA 431 (paras 1-2; 15; 23-40) (declarations as to physical sensations); <i>R v Dion</i> 2025 ONCA 7 (paras 1-6; 27-47); <i>Briscoe Estate v Canadian Premier Life Insurance</i> 2012 ONCA 854 (paras 1-23; 52-57) (state of mind exception); <i>R v MacKinnon</i> 2022 ONCA 811 (paras 1-23; 39-51; 65-76; 102-109); <i>R v RA</i> 2024 ONCA 696 (paras 6-7; 33-43) (spontaneous utterances)



<b>Voluntary Confessions Rule</b>	493-666 Additional Cases: <i>R v Ordonio</i> 2025 ONCA 135 (Use of the Reid Technique)
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<b>PART IV – FACT- FINDING</b>	<b>READINGS</b>
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### Online Resources

The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada ([www.canlii.org](http://www.canlii.org)). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your exam registration fee also includes free access to the Advance Quicklaw resources of LexisNexis. Your ID and password will be arranged and emailed to your email address on file a few weeks after the end of the registration session.

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