



Evidence and the Advocate: A Contextual Approach to Learning Evidence

Christopher W. Behan

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Evidence and the Advocate teaches each rule of evidence using a three pronged approach: (1) a treatise-like explanation of the rule, its purposes, exceptions and foundations; (2) cases, discussion questions and hypothetical problems related to the rule; and (3) an application section in which the students must prepare a courtroom exercise putting the rule into action. This approach forms a teaching template for each rule of evidence.

Each application exercise stands alone and has been designed to illuminate the rule being taught. The application exercises range from simple form-of-question drills to full-fledged evidentiary hearings. Some require minimal preparation, and others require significant out-of-class research and preparation. In the exercises, students serve as attorneys, witnesses, judges, and, in the more involved exercises, as a court of appeals. The exercises build on each other. The initial exercises focus on fundamental advocacy skills such as conducting a direct examination or laying the foundation for an exhibit. Later exercises incorporate these foundational skills for more complicated tasks such as writing a motion, impeaching a witness, or conducting a *Daubert* hearing on the reliability of expert testimony.

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