LAWS3400
Evidence
Session 2, Weekday attendance, North Ryde 2021
Macquarie Law School

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Notice
Some on-campus classes have moved online for the first two weeks of Session, before returning to campus in Week 3. If you are studying a unit outside of the primary Session 2 timetable, please contact your teaching staff team for further details.

Some classes/teaching activities cannot be moved online and must be taught on campus. To find out if you are enrolled in one of these classes/teaching activities, you can check to see if your unit is on the list of units with mandatory on-campus classes/teaching activities.

Your Unit Convenor will provide more information via an iLearn announcement when your iLearn unit becomes available.

https://unitguides.mq.edu.au/unit_offerings/133591/unit_guide/print
General Information

Unit convenor and teaching staff
Unit Convenor, Lecturer, Tutor
Ilija Vickovich
ilija.vickovich@mq.edu.au
Contact via ilija.vickovich@mq.edu.au
6 First Walk 624
Thursdays 1.30pm-2.30pm

Tutor
Keith Williams
keith.williams@mq.edu.au

Tutor
Kyle Hawthorne
kyle.hawthorne@mq.edu.au

Credit points
10

Prerequisites
LAWS398 or LAWS3200

Corequisites

Co-badged status

Unit description
This unit examines and teaches the principles and rules of evidence in civil and criminal matters in New South Wales. The focus is on the uniform evidence scheme, with particular attention given to the Evidence Act 1995 (NSW) and relevant judicial decisions that affect an interpretation of the Act. The unit starts with an introduction to litigation systems, and then proceeds to the fundamentals of trials, and the statutory and discretionary powers of courts to control their proceedings. The adducing of testamentary, documentary and real evidence is addressed, as are issues relating to proof and relevance. Detailed coverage is then given to the rules of admissibility relating to hearsay, admissions, opinion, tendency, coincidence, credibility, character and identification evidence.

Important Academic Dates
Information about important academic dates including deadlines for withdrawing from units are available at https://students.mq.edu.au/important-dates
Learning Outcomes

On successful completion of this unit, you will be able to:

ULO1: Explain the reasons for and describe the principal rules of evidence.
ULO2: Explain the reasons for and describe the main exceptions to the principal rules of evidence
ULO3: Critically analyse the appropriateness and fairness of the principal evidentiary rules
ULO4: Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems

General Assessment Information

Late Assessment Submission Penalty

Unless a Disruption to Studies request has been submitted and approved, (a) a penalty for lateness will apply – 10 marks out of 100 credit will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline.

FIT TO SIT MODEL Macquarie University operates under a ‘Fit to Sit’ model. This means that in sitting an exam and/or in-class test or otherwise submitting an assessment (including an online quiz), a student declares themselves fit to do so. Therefore, if a student is feeling unfit to sit the exam or test, or otherwise submit the assessment (as the case may be), they should not do so. If a student sits an exam or test, or otherwise submits an assessment, knowing that they are unfit to do so, they will not be granted Special Consideration.

It is the responsibility of the student to determine whether they are fit to sit an examination or test or otherwise submit an assessment, or whether a Special Consideration application should be submitted.

A student’s sitting an examination or test or otherwise submitting an assessment will not preclude the student from being granted Special Consideration if the student can demonstrate that:

• they were unfit to make reasonable judgement on their fitness to undertake the assessment, due to mental illness or other exceptional circumstances;
• they were taken ill during the assessment (in the case of an examination or test); or
• other exceptional circumstances beyond their control vitiated the Fit to Sit declaration.
## Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Hurdle</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Early Assessment Quiz</td>
<td>10%</td>
<td>No</td>
<td>23:59 22/08/2021</td>
</tr>
<tr>
<td>Assignment</td>
<td>30%</td>
<td>No</td>
<td>23:59 06/09/2021</td>
</tr>
<tr>
<td>Mid-Semester Quiz</td>
<td>10%</td>
<td>No</td>
<td>23:59 31/10/2021</td>
</tr>
<tr>
<td>Final Take-Home Assessment</td>
<td>40%</td>
<td>No</td>
<td>17:00 12/11/2021</td>
</tr>
<tr>
<td>Class Participation</td>
<td>10%</td>
<td>No</td>
<td>Continuing</td>
</tr>
</tbody>
</table>

### Early Assessment Quiz

**Assessment Type:** Quiz/Test  
**Indicative Time on Task:** 1 hours  
**Due:** 23:59 22/08/2021  
**Weighting:** 10%

**Online Quiz**

On successful completion you will be able to:
- Explain the reasons for and describe the principal rules of evidence.

### Assignment

**Assessment Type:** Essay  
**Indicative Time on Task:** 25 hours  
**Due:** 23:59 06/09/2021  
**Weighting:** 30%

**Hypothetical Problem Assignment**

On successful completion you will be able to:
- Explain the reasons for and describe the principal rules of evidence.
- Explain the reasons for and describe the main exceptions to the principal rules of evidence.
• Critically analyse the appropriateness and fairness of the principal evidentiary rules
• Synthesise, evaluate and apply the principal evidentiary rules and their exceptions
to factual scenarios and problems

Mid-Semester Quiz
Assessment Type 1: Quiz/Test
Indicative Time on Task 2: 1 hours
Due: 23:59 31/10/2021
Weighting: 10%

Online Quiz

On successful completion you will be able to:
• Explain the reasons for and describe the principal rules of evidence.
• Explain the reasons for and describe the main exceptions to the principal rules
  of evidence

Final Take-Home Assessment
Assessment Type 1: Quiz/Test
Indicative Time on Task 2: 2 hours
Due: 17:00 12/11/2021
Weighting: 40%

Final Take-Home Assessment

On successful completion you will be able to:
• Explain the reasons for and describe the principal rules of evidence.
• Explain the reasons for and describe the main exceptions to the principal rules
  of evidence
• Critically analyse the appropriateness and fairness of the principal evidentiary rules
• Synthesise, evaluate and apply the principal evidentiary rules and their exceptions
to factual scenarios and problems

Class Participation
Assessment Type 1: Participatory task
Indicative Time on Task: 12 hours
Due: Continuing
Weighting: 10%

Series of in-class problem solving activities and presentations

On successful completion you will be able to:

- Explain the reasons for and describe the principal rules of evidence.
- Explain the reasons for and describe the main exceptions to the principal rules of evidence.
- Critically analyse the appropriateness and fairness of the principal evidentiary rules.
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems.

1 If you need help with your assignment, please contact:
- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the Learning Skills Unit for academic skills support.

2 Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation.

Delivery and Resources

DELIVERY AND RESOURCES Delivery: Day, External

This unit will use: iLearn webpage and Echo recorded lectures

Times and Locations for Lectures and Tutorials For current updates, lecture times and classrooms please consult the MQ Timetables website: http://www.timetables.mq.edu.au.

Prescribed Text:

Recommended Texts

Hon D Heydon, Cross on Evidence, 11th ed. LexisNexis, 2017
## Unit Schedule

<table>
<thead>
<tr>
<th>Wk</th>
<th>Week Commencing</th>
<th>Lecture Topic</th>
<th>Tutorial Topic</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>26 July</td>
<td>Introduction to Evidence</td>
<td>No Tutorial</td>
</tr>
<tr>
<td>2</td>
<td>2 August</td>
<td>Trials; Judicial Powers and Discretions</td>
<td>1 Introduction to Evidence</td>
</tr>
<tr>
<td>3</td>
<td>9 August</td>
<td>Adducing Evidence I</td>
<td>2 Trials; Judicial Powers and Discretions</td>
</tr>
<tr>
<td>4</td>
<td>16 August</td>
<td>Adducing Evidence II</td>
<td>3 Adducing Evidence I</td>
</tr>
<tr>
<td>5</td>
<td>23 August</td>
<td>Proof and Relevance</td>
<td>4 Adducing Evidence II</td>
</tr>
<tr>
<td>6</td>
<td>30 August</td>
<td>Hearsay Evidence I</td>
<td>5 Proof and Relevance</td>
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<tr>
<td>7</td>
<td>6 September</td>
<td>Hearsay Evidence II</td>
<td>6 Hearsay Evidence I</td>
</tr>
</tbody>
</table>

Mid-Semester Break
<table>
<thead>
<tr>
<th>Week</th>
<th>Date</th>
<th>Topic</th>
<th>Week</th>
<th>Date</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>27 September</td>
<td>Hearsay Evidence III</td>
<td>7</td>
<td></td>
<td>Hearsay Evidence II</td>
</tr>
<tr>
<td>9</td>
<td>4 October</td>
<td>Opinion Evidence</td>
<td>8</td>
<td></td>
<td>Hearsay Evidence III</td>
</tr>
<tr>
<td>10</td>
<td>11 October</td>
<td>Tendency and Coincidence Evidence</td>
<td>9</td>
<td></td>
<td>Opinion Evidence</td>
</tr>
<tr>
<td>11</td>
<td>18 October</td>
<td>Credibility and Character Evidence</td>
<td>10</td>
<td></td>
<td>Tendency and Coincidence Evidence</td>
</tr>
<tr>
<td>12</td>
<td>25 October</td>
<td>Identification Evidence</td>
<td>11</td>
<td></td>
<td>Credibility and Character Evidence</td>
</tr>
<tr>
<td>13</td>
<td>1 November</td>
<td>No Lecture</td>
<td>12</td>
<td></td>
<td>Identification Evidence</td>
</tr>
</tbody>
</table>

**Note: Tutorials commence in week 2**

**Policies and Procedures**

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- Academic Appeals Policy
- Academic Integrity Policy
- Academic Progression Policy
- Assessment Policy
- Fitness to Practice Procedure
- Grade Appeal Policy
- Complaint Management Procedure for Students and Members of the Public
- Special Consideration Policy *(Note: The Special Consideration Policy is effective from 4*
Students seeking more policy resources can visit the Student Policy Gateway (https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central).

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/admin/other-resources/student-conduct

Results

Results published on platform other than eStudent, (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in eStudent. For more information visit ask.mq.edu.au or if you are a Global MBA student contact globalmba.support@mq.edu.au

Any application for extensions of time must comply with the information provided in this Unit Guide under 'Assessment Tasks'. An application in accordance with the university's Special Consideration policy will be required in all cases.

Students requiring special arrangements for the completion of any assessment task (including the final exam) due to any disability must contact Campus Wellbeing and seek advice. The unit convenor will deal with such cases only with the approval of Campus Wellbeing.

Student Support

Macquarie University provides a range of support services for students. For details, visit http://students.mq.edu.au/support/

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to help you improve your marks and take control of your study.

- Getting help with your assignment
- Workshops
- StudyWise
- Academic Integrity Module

The Library provides online and face to face support to help you find and use relevant information resources.
Student Enquiry Service
For all student enquiries, visit Student Connect at ask.mq.edu.au
If you are a Global MBA student contact globalmba.support@mq.edu.au

Equity Support
Students with a disability are encouraged to contact the Disability Service who can provide appropriate help with any issues that arise during their studies.

Students with disability who wish to seek special consideration for any assessment item must advise the unit convenor and also formally apply for special consideration for each task.

IT Help
For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University’s IT, you must adhere to the Acceptable Use of IT Resources Policy. The policy applies to all who connect to the MQ network including students.