

FUNDAMENTALS OF EVIDENCE OUTLINE

Evidence- Evidence includes witness's statements under oath and documents or objects admitted into evidence by the court.

Three kinds of evidence-

1. Testimonial
2. Physical
3. Demonstrative

Admissibility- Whether the jury will be allowed to hear the evidence, or if the jury has already heard it, whether it will be instructed to ignore the evidence while deliberating.

FRE 401- Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence, and
- (b) the fact is of consequence in determining the action.

***EVIDENCE IS RELEVANT IF IT IS PROBATIVE OF A MATERIAL FACT!!
NOTHING IS RELEVANT OR IRRELEVANT, BY ITSELF. IT DEPENDS ON THE
FACT YOU ARE TRYING TO PROVE. ***

Probative- The evidence makes it more or less likely that the fact exists. → **UPDATES** the probability estimate of a material fact.

Theory of Relevance- The inference or series of inferences connecting one item of evidence to one or more issues.

- Every analysis must begin with a theory of relevance. Begin with the evidence at issue and end with a legal conclusion.

FRE 402- Relevant evidence is admissible unless the following provides otherwise:

- the United States Constitution,
- a federal statute,
- these rules, or
- other rules prescribed by the Supreme Court.

Irrelevant evidence is not admissible.

PRESERVATION OF ERROR

FRE 104(a)- The court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible.

FRE 103- A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:

- (1) if the ruling admits evidence,

Fundamentals Of Evidence

LL Leslie



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