I. Course Outline and Objectives:

For each student to develop a working knowledge of tort law and certain related statutes for us as an employed paralegal. Each student should, by the end of the course, be able to:

A. Have taken another step toward becoming a truly educated and enriched individual by learning to recognize, understand and accept ownership for his or her own learning through such activities as participating in class discussion in an informed and professional manner; asking questions of one's self, other students, and the instructor in order to more fully understand a concept or idea; responding thoughtfully to ideas that challenge his or her own thinking, etc.

B. Know and demonstrate an understanding of the evidence rules, statutes and case law;

1. Knowledge and demonstration of the above includes, but is not limited to:

   a. Exhibiting understanding of the purpose and organization of the Federal Rules of Evidence;

   b. Utilizing an analytical framework for decision-making by evaluating a variety of fact patterns to identify evidentiary issues to support the litigation practice of an attorney;

   c. Identify and appropriately use the rules, statutes, and case law of evidence to correctly analyze issues regarding relevancy, character, habit, routine, privilege, hearsay, experts, exhibits, records and documents, etc.

   d. Utilizing the above framework to correctly draft evidentiary pleadings and responses (ex., Motions in Limine, Motions to Suppress, etc.) assist an attorney's litigation practice.

C. Know and demonstrate a general understanding of relevant ethical, moral, social and political considerations;

II. Texts

B. This text may be supplemented by suggested and mandatory outside reading assignments.

### III. Grading System

A. Mid-Term Examination (Date announced in class) 10%
B. Final Examination (Date announced in class) 25%
C. Writing Project (Date announced in class) 25%
D. Class Participation in discussions, scenarios, readings, and briefings (attendance is subsumed within this portion of the grade.) 40%

Tests may be essay, take-home and may include demonstration of skill application.

### IV. Grading Philosophy

Grading in this course is not on the basis of a curve or any other criteria which relativizes student work product. In other words, the grade earned by a student is not based upon a comparison of the student's work product with any other student's work product. Grades are measured against an absolute. That absolute is whether the student's work product is substantively correct and presented in a manner which demonstrates a command of higher thinking skills (analysis, synthesis, and evaluation), balanced judgment, clarity and precision of thought, good oral and written communication skills (correct use of grammar and syntax, logical development of ideas, with supporting citation to authority), and overall professional bearing.

Under this system of grading it is possible for all students to achieve the highest grade awardable. The converse is also possible. On balance, this system of grading is rigorous. There is no arbitrary grade inflation or deflation under this grading philosophy.

Under only the most unusual of circumstances will extra credit work be considered. Missed exams, low exam grades, etc. do not constitute "most unusual circumstances."

This class is part of each student's preparation for a professional career. One salient attribute of professionalism is personal accountability and responsibility. The grading philosophy adopted in this course is for the express purpose of promoting professional development. The hallmark of professionalism is whether a job is done right, and done right the first time.
in the workplace. Attached is the program’s Student Assessment Form. Your grade will include your professionalism as measured under the criteria of this form.

V. Class Participation Grading:

The rationale for emphasizing class participation is research into adult education demonstrates that active participation by the student is the key to effective comprehension, long-term retention, and readiness for the workplace. For the student to demonstrate comprehension, retention, and readiness to the instructor, the student must show he/she is contributing to his/her own and his/her fellow students’ intellectual enrichment in a meaningful and mature manner.

The following is an illustration of how this component of your grade is determined. If the student wants to achieve 100% for participation, then the student must attend all class sessions and come to each class well-prepared, and must qualitatively (not quantitatively) engage in discussions, ask questions, make connections between sources of information, and become involved in scenarios, presentations, readings, briefings, etc.

If the student elects not to attend class, or attends by filling a chair (not engaging him/herself in group discussions, scenarios, presentations etc.), it will be considered as 0% of the class participation portion of the student's grade and his/her grade will reflect accordingly.

Between 100% and 0% class participation lies a great deal of latitude for the student with respect to his/her involvement. As before, an illustration: If a student attends the great majority of classes, and meaningfully participates (as defined above) in about half of those classes, the student will receive 50% of the grade ascribed to class participation. Thus, the student need only honestly examine the number of times he/she attended class and actively participated (as defined above) divided by the total number of class sessions in the quarter to approximate what his/her percentage of the participation grade will be. Other factors such as a student’s progress throughout a quarter, and the quality and insight of his/her contributions are also grading considerations.

Class participation should not be taken as a reason to engage in immature, offensive, rude, belligerent, etc., behavior. Students are guided by the college’s Code of Student Conduct when in class.

Conceptually, participation (as defined above) is an indirect measure of maturity, motivation, and professionalism. One aspect of these attributes is honest self-awareness and self-assessment. Another aspect of these
attributes is ownership and responsibility for outcomes. The instructor expects each student to honestly assess his/her motivation, maturity, and professionalism, and to take responsibility for what is learned and how well it is learned. Practice makes the master. Honest, active, mature classroom participation will lead to the same in the workplace.

The instructor understands the subjectivity inherent in this portion of the student's grade. The instructor also understands such mitigating factors as shyness, slow verbal skills, self-esteem/self-confidence issues, different learning styles, etc. The instructor invites students to discuss this portion of the grade with him early in the quarter, NOT AT THE END OF THE QUARTER, when the quarter's dye has been cast. The instructor makes every effort to be fair with respect to grading, and does consider mitigating factors.

However, the instructor also expects a student to take risks regarding mitigating factors (examples above) in the student's life. For example, if a student deems him/herself to be shy, and therefore avoids participating in class, the instructor expects that student to make consistent good faith efforts at overcoming his/her shyness. The same would be expected in the workplace. RISK AND REWARD ARE COMMENSURATE. Generally speaking, the greater one risks, the greater one is rewarded. Here one's reward is greater learning, enhanced self-confidence, more fun in the long run, and an easier transition to the workplace.

VI. **Incompletes**

Only under the most unusual, unforeseeable to a reasonably mature and effective adult, and/or extreme circumstances will a student be permitted to take an incomplete or a "Z" grade for this class. Students, who do not attend regularly, are routinely late, perform poorly on exams, or other class work, have scheduling conflicts, etc., should not anticipate they could receive an incomplete and/or "Z" grade for this class.

VII. **Instructor**

Robert D. Loomis  
Room: 213J Old Main Addition, Bldg. #1  
Telephone: 509-533-7470  
FAX: 509-533-8163  
E-mail: bob.loomis@scc.spokane.edu

VIII. **Attendance and Participation**
Full attendance and participation is expected. Exceptions will be made for emergencies and unusual circumstances (family death, hospitalization, etc.). Conflicts with work, vacation, etc., will not count, and a missed class will count as an absence. Late attendance will be considered, and will negatively affect the class participation portion of a student's grade. Any deadline given in class (example, handing in a paper, time for giving a test) will be strictly enforced. To even be considered for deadline dispensation, the student must notify the instructor, before the deadline’s expiration; of the situation (a phone message is sufficient). Under only the most unusual circumstances will individuals be allowed a deadline dispensation. Minor illnesses, forgetfulness, work conflicts, etc., do not constitute "most unusual circumstances."

This class is part of each student’s preparation for a professional career. A hallmark of professionalism is punctuality. A high percentage of this class’s grade is based on class participation. Participation includes prompt attendance. Students who routinely come late to class and/or leave early and/or do not participate should expect the participation portion of their grade to be adversely impacted.

X. Ethics

Ethics and professionalism are of central concern in the legal environment. Therefore, any student found cheating as defined in WAC 132Q-04-060 will receive, at the least, an automatic failing grade for the course. Additional disciplinary measures may be taken as deemed appropriate. For example, plagiarism on any class paper, project, pleading, presentation, etc. is cheating.

Students who disrupt the classes’ positive learning environment are also subject to discipline under the college's Code of Conduct as defined in WAC 132Q-04-067: "Any student who, by act of misconduct, substantially disrupts any college class by engaging in conduct that renders it difficult or impossible to maintain the decorum of the class, shall be subject to disciplinary action." A disruption to the class's positive learning environment is anything that prevents the instructor from effectively conveying information to the class. Examples are: sleeping, rudeness, talking in class, unpermitted physical contact, body odor, excessive questioning, etc. Disciplinary action is found under WAC 132Q-04-260 with such examples as a disciplinary warning, reprimand, disciplinary probation, dismissal and fines. A faculty member at Spokane Community College has the right to suspend a student who disrupts class for up to three class days. The faculty member decides what is disruptive, see WAC 132Q-05-033.

XI. Student Services
The Americans with Disabilities Act is designed to ensure that students with disabilities have an equal opportunity to access academic programs and successfully complete their educational goals. Spokane Community College is committed to providing accessibility to all students. Any students with disabilities who have accommodation needs must contact Disability Support Services located in the Learning Resource Center (Library) or call Laura at 533-8872 to make an appointment to complete the intake process. Additionally the student should contact me after class to further facilitate the necessary accommodation. This information will remain strictly confidential.

XII. Specific Class Assignments:

The following table depicts the assignments you will complete during the course of this class along with an explanation of the skills you can anticipate acquiring from the completion of these assignments:

<table>
<thead>
<tr>
<th>SPECIFIC ASSIGNMENT(S)</th>
<th>SPECIFIC SKILLS/OUTCOMES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Drafting Exercise—Issue of Law Note, Motion and Affidavit, and Order for either</td>
<td>1. Increasing understanding of substantive applicable law.</td>
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<tr>
<td>Motion in Limine for civil action, or Motion to Suppress in criminal action (student’s</td>
<td>2. Developing competence with fundamental legal research.</td>
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<td>election) for typical evidence issues such as a) ER 403 probativeness v. undue prejudice,</td>
<td>3. Refining critical thinking skills with respect to applying elements analysis to</td>
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<td>b) hearsay c) improper expert opinion foundation, d) 4th Amendment Search &amp; Search</td>
<td>hypothetical facts.</td>
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<td>violation, e) character issues—improper foundation, f) other categories of evidence</td>
<td>4. Increasing proficiency with respect to writing clear, accurate legal prose.</td>
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<td>issues. Completed over course of class.</td>
<td>5. Increasing proficiency with respect to formatting legal documents.</td>
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<td></td>
<td>6. Deepening working familiarity with applicable civil procedure rules.</td>
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<td>2. Scenario Problem-Solving. Completed once per class session.</td>
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<tr>
<td></td>
<td>1. Refining critical thinking skills with respect to applying elements analysis to</td>
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<td>hypothetical facts.</td>
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<td></td>
<td>2. Developing collaborative people-skills through give and take of problem-solving</td>
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<td></td>
<td>discussion.</td>
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<td>3. Developing increasing confidence and skill with respect to speaking in clear,</td>
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<td>accurate, and succinct terms, with appropriate use of legal terminology.</td>
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XIII. Legal Advice:

The instructor is a licensed and practicing attorney. Additionally the instructor is a relatively caring individual. On a regular basis the instructor is approached by students seeking legal advice. The Rules of Professional Conduct governing the activities of an attorney in Washington State, provide that when an attorney provides legal advice to a person, an attorney-client relationship is established, the attorney is professionally responsible for his/heir’s advice, and the attorney can be sued for malpractice in such situations. This is true whether money is received or not, and whether the advice is casual or not. The instructor does not carry malpractice insurance, and his office is not configured to check for conflicts of interest, calendaring, etc., which are integral to good professional representation. Additionally, the common way in which the instructor is approached for legal advice, frequently means the instructor is not provided with the correct and/or complete information, upon which a reasoned professional judgment could be based. Please therefore understand that the instructor, with some measure of regret, cannot, and does not provide legal advice to students, even in the form of a hypothetical—a frequently employed student technique. If you are in the position of needing free or low-cost legal advice, the instructor has in his office, for free, a flyer with contact information for many of the agencies in the Inland Northwest which provide such services to the public. You need only ask.

XIV. Outline

The following is an outline of subjects to be covered in the class. The class may not cover all of the following topics, since each classes pace varies. Additionally the topics may not be covered in the order in which they are listed below.

EVIDENCE OUTLINE

I. Introduction
   A. Course Objectives
   B. Definition of "evidence"
   C. Evidence contrasted with other law areas
   D. Common Law, Rules and Statutes

II. Forms and Types of Evidence
   A. Demonstrative
   B. Testimonial
   C. Real
   D. Expert & Scientific Opinion
   E. Etc.
III. Procedure for Admitting and Excluding Evidence

IV. Relevancy
   A. Relevancy and Materiality

V. Discretionary Exclusion of Evidence
   A. ER 403--Probative & Prejudice
   B. Character Evidence

VI. Hearsay Rule and Exceptions

VII. Privilege
   A. State Statutes
   B. Caselaw--Common Law

VIII. Competency

IX. Opinion Evidence and Expert Witnesses
   A. Non-expert witness opinions
   B. Expert witness opinions
   C. Impeachment & Cross-Examination

X. Impeachment--Generally
   A. Prejudice
   B. Sensory Deficiency
   C. Competency
   D. Etc.

XI. Judicial Notice

XII. Parole Evidence
   A. Rationale & scope of rule
   B. Exceptions

XIII. Burdens in Evidence
   A. Burden of persuasion
      1. Preponderance
      2. Clear & Convincing
      3. Beyond a reasonable doubt
   B. Burden of proof
   C. Presumptions--effects
   D. Etc.

XIV. Records, Documents, Writings, Etc.
   A. Original Writing Rule & Exceptions
B. Electronic Records
C. Etc.

XV. Discovery & Motion Practice
A. Discovery Methods
B. Types of Evidentiary Motions

 XVI. Ethical Issues
A. Spoliation of Records
B. Destruction of Records & Obstruction of Justice
C. Delay & Hindrance in Discovery
D. Etc.