Evidence Fall 2012, 241, sec. 1 Mai Linh Spencer

**Assignment for first class**

Casebook (“CB”): Allen, Kuhns, Swift, Schwartz, Pardo, *Evidence: Text, Problems, and Cases* (5th ed. 2011).

Reading: CB pp. li-lii, 1-77 (Chapter One)

Handouts (posted on bSpace under Resources): Mauet, Develop a theory of the case; Vetter, Successful Civil Litigation

This may seem like a lot of reading, but it will go quickly. CB Chapter One is the lightly redacted transcript of a criminal trial in Del Norte County Superior Court. We will devote most of the first two classes to discussing the transcript, the case, trials generally, and how evidence persuades the factfinder (jury or judge). Part of the class will take place in small groups, so it is imperative that you come prepared to talk about your views of the evidence and the case. Don’t worry: you will not be cold-called on the first or second day of class. But you will get much more out of those classes, and have a better foundation for the rest of the semester, if you have read the full transcript and thought about the case before we meet. According to one estimate, it takes four hours to read Chapter One.

Class Discussion:

-- What does the prosecutor need to prove to obtain a conviction? I.e., what are the elements of Penal Code section 4501.5?

-- What is the prosecutor’s “case theory” (his story of what happened during the incident)? What testimony or other evidence did you find most persuasive as to the prosecution case, i.e. what best proved that case theory? Why did you find it persuasive?

-- What is the defense case theory? What testimony or other evidence did you find most persuasive as to the defense case? Why did you find it persuasive?

-- Was there evidence you thought was irrelevant to the case? Was there evidence you suspect was relevant but cannot see how?

If you have time and interest, take a look at a few photos of Pelican Bay State Prison (including a food port, though not in Facility B) at:

http://informant.kalwnews.org/2011/08/photos-inside-pelican-bay-state-prison/

For photos of side-handled batons, see: <http://www.code3tactical.com/pr-24-batons.aspx>

For one inmate’s description of the SHU, see: <http://www.sfgate.com/opinion/openforum/article/The-crime-of-punishment-at-Pelican-Bay-State-3597332.php>

For the prison guard union’s summaries of recent incidents involving inmates, see:

http://www.ccpoa.org/members/california\_pens/facility/pelican\_bay