# EVIDENCE PROFESSOR SWIFT

**LAW 241 SPRING 2013**

# FIRST ASSIGNMENT

# WEEK #1

**Introduction; Chapter One: The Case of People v. Johnson; Chapter Two: The Process of Proof**

Class #1. Casebook: Pages xlv-xlvii, li-lii; 1-39, 64, 79-86

Comments:

 1. What are the essential elements of the substantive law that governs the prosecution’s case against James Johnson? Where do you find them? As you read the prosecution’s presentation of its case, identify the testimony or other proof that the prosecution obtained to satisfy its burden of production with regard to each of these elements. Note the page and line at which this occurred.

 2. In response to the defendant’s Motion to Dismiss (pages 37-38), the judge ruled that the inference that Johnson’s kicking and swinging caused the two charged batteries was sufficiently strong to meet the prosecution’s burden of production. The defense had argued that this inference was “speculative.” What do you think?

 3. The prosecution also argues a second theory for finding a battery – namely, that Johnson started the altercation by charging Walker. If he did so, then he could be held responsible for all the subsequent “batteries” no matter how they came about. What prosecution testimony supports the theory that Johnson started it?

4. The reading in Chapter Two describes the participants in, and the structure of, trial in an adversary system. This may be quite familiar to you, but I will be relying on your knowledge of the structure of trials throughout the semester. Please pay particular attention to the section on the burden of production, pages 83-84. If you have questions, please be prepared to ask them.