

PREFACE TO THE SECOND EDITION

In this second edition, we have tried to streamline the materials to some extent while maintaining the basic approach. We have removed some hypotheticals, made others more clear, added hypotheticals where the material required, and tightened the text. We have also added several more illustrative transcripts, which will help provide additional context to the rules.

This new edition also reflects several important changes in evidence law that have occurred since the 1994 publication of the first edition. Most important of all is the Supreme Court's abrupt and fundamental change of approach to the Sixth Amendment Confrontation Clause and its effect on the admission of hearsay evidence. Beginning with *Crawford v. Washington*, 541 U.S. 36 (1994), the Court began to lay out an approach that recognizes the differences between the accuracy policy largely underlying the hearsay rule from the basic interest in face-to-face confrontation that the Court believes gave rise to the Confrontation Clause. With *Crawford*, and two years later with *Davis v. Washington*, 126 S. Ct. 2266 (2006), the Court has given criminal defendants a powerful new tool to challenge the admissibility of some of the most damaging hearsay evidence in possession of the prosecution. At the same time, however, the new approach largely immunizes much hearsay against confrontation attack.

The other significant development in evidence law occurred with the 2006 adoption of several amendments to the Federal Rules of Evidence. We discuss amendments to rules governing evidence of character (Rule 404) and compromise (Rule 408) as well as the rules governing the admissibility of evidence to impeach a jury's verdict (Rule 606) and evidence of prior convictions offered to impeach a witness (609).

Overall, we have retained the basic focus and structure of the book. Our theory is that students learn evidence law best when they are provided with the rules and an explanation of how they work, and then given the opportunity to apply that material to concise, concrete hypotheticals. For more detail about our method, please refer to the Preface to the First Edition, which immediately follows.

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