

## LAWS50037 Evidence and Proof

<b>Credit Points:</b>	12.50															
<b>Level:</b>	5 (Graduate/Postgraduate)															
<b>Dates &amp; Locations:</b>	2012, Parkville This subject commences in the following study period/s: June, Parkville - Taught on campus. July, Parkville - Taught on campus. November, Parkville - Taught on campus. Semester 1, Parkville - Taught on campus. 3 hour class per week or 7 day intensive in winter.															
<b>Time Commitment:</b>	Contact Hours: 36 hours. Total Time Commitment: 144 hours.															
<b>Prerequisites:</b>	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50024 Principles of Public Law	Semester 1	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50
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LAWS50023 Legal Method and Reasoning	February	12.50														
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LAWS50026 Obligations	Semester 1	12.50														
LAWS50027 Dispute Resolution	Semester 1	12.50														
<b>Corequisites:</b>	None.															
<b>Recommended Background Knowledge:</b>	None.															
<b>Non Allowed Subjects:</b>	None.															
<b>Core Participation Requirements:</b>	The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a> .															
<b>Coordinator:</b>	Assoc Prof Jeremy Gans, Mr Andrew Roberts															
<b>Contact:</b>	Melbourne Law School Student Centre Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475															

<b>Subject Overview:</b>	<p>Evidence and Proof offers a detailed exploration of how facts are analysed in legal settings, giving equal attention to the way that lawyers think about and communicate factual issues and the rules that regulate how courts resolve factual disputes. The subject provides a foundation for understanding both the rules that regulate the curial resolution of factual disagreements and the way that facts are approached in legal practice and in everyday life.</p> <p>The core of the subject is the study of mental processes used to explore and resolve factual issues. Specific topics addressed are the development of a theory of the case and a description of inferences that can be used to reason from the evidence to the case. A number of methods for communicating factual analysis, including the use of software, will be studied, with an emphasis on both technical accuracy and the production of useful, readable analysis.</p> <p>The subject will then explore the main rules that regulate (or purport to regulate) these mental processes (and related physical processes, such as the testimony of witnesses and the admission of documents and real evidence) when factual disputes are resolved by courts. The regulatory topics, comprising the central components of the law of evidence, include relevance, discretionary exclusion; the hearsay rule and its exceptions; the opinion rule and the regulation of expert evidence; and the credibility rule. The subject will also consider the rules that impact on the proof of criminal charges, including the rules on evidence of the defendant's character and other misconduct; the admissibility of admissions; and the law of criminal investigations. The classes will emphasise the application of these rules to complex, realistic facts and the development of skills to describe the impact of legal regulation on factual arguments that would otherwise be available.</p> <p>Throughout, the subject will explore the rationales for the rules and practices that surround legal fact-finding, as well as the alternative approaches available from comparative jurisdictions or proposed as law reforms. Students will be challenged to consider not only the limits of legal regulation, but also the limits of logical fact-finding, as a means of providing justice (and, in particular, avoiding miscarriages of justice) in a transparent, accountable, efficient and effective manner.</p>
<b>Objectives:</b>	<p>Students who successfully complete this subject will:</p> <ul style="list-style-type: none"> <li># Have a sophisticated appreciation of the role played by facts in litigation;</li> <li># Have developed specialist cognitive, technical and creative skills in the analysis of facts in a variety of contexts, both through the development of a theory of the case that is compatible with the available evidence and the formulation of a comprehensive description of how that evidence rationally supports a given case;</li> <li># Have a detailed and critical understanding of the main sources, principles, techniques, terminology and concepts of the law of evidence in Australia and with the fundamental features of common law trials;</li> <li># Have acquired a specialist working knowledge of the most important rules of evidence, the key controversies about their contemporary application and an ability to apply those rules to diverse factual situations; and</li> <li># Be able to communicate both factual and legal analysis in a clear, succinct and comprehensive manner.</li> </ul>
<b>Assessment:</b>	<p>Take Home Examination: Students will be required to analyse a lengthy brief of evidence (including witness statements, expert reports and variety of real evidence) derived from an actual court file or instance of litigation. They will then have to prepare an advice on evidence setting out their theory of the case (consistently with the evidence), their proof of the case (consistently with the theory) and their assessment of the impact of the law of evidence on their proof. (6,000 words) (100%).</p>
<b>Prescribed Texts:</b>	<p>Gans and Palmer, Uniform Evidence (latest edition); Palmer, Proof (latest edition); Specialist materials containing detailed case studies of factual scenarios and documentary evidence will also be made available from Melbourne Law School.</p>
<b>Breadth Options:</b>	<p>This subject is not available as a breadth subject.</p>
<b>Fees Information:</b>	<p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>
<b>Generic Skills:</b>	<p>On successful completion of the subject students will have developed their skills in the following areas:</p>

	<ul style="list-style-type: none"><li># Advanced skills in the analysis of facts in a legal context, including imaginative and creative skills in developing theories and arguments and deductive and logical skills in expressing inferences and factual propositions;</li><li># Specialist knowledge and critical understanding of the statutes and cases relevant to Victorian evidence law and their application to complex, diverse and novel factual arguments;</li><li># The ability to express and advocate complex factual and legal arguments in a clear, accessible and comprehensive manner aimed at diverse legal audiences.</li></ul>
<b>Notes:</b>	<b>Special Computer Requirements:</b> Use of certain software as a means of communicating factual analysis will be discussed in class, and may – but only if that is an individual student's preference – be used in assessment.
<b>Related Course(s):</b>	Juris Doctor