Syllabus for SCIENTIFIC EVIDENCE SEMINAR: Fall 2013
Professor Vern R. Walker

COURSE DESCRIPTION

This seminar focuses on the effective presentation and critique of scientific information in the context of legal decision-making. It examines the logical structure of scientific reasoning, as well as the logical structure of legal reasoning when decision-makers assess the probative value of proffered scientific evidence. It also examines generic strategy and tactics for presenting scientific evidence in civil litigation, administrative proceedings and criminal proceedings, taking into account the evidentiary and procedural problems peculiar to each of these areas. No prior background in science is necessary. There is no examination, but students are required to write an analytic paper examining the use of actual scientific information in a current problem area of their choice (e.g., in toxic tort litigation, products liability litigation, criminal identification, or administrative rulemaking).

CONTACT INFORMATION

Office: Room 106, in southwest corner of the library
Email: Vern.R.Walker@Hofstra.edu
Telephone (but email is preferred): (516) 463-5165
Regular office hours will be announced; to avoid conflicts, please make appointments with my administrative assistant, even for meetings during office hours
Administrative assistant: Joyce A. Cox, Room 038U, in basement of the library
Telephone: (516) 463-6339
Email: Joyce.A.Cox@Hofstra.edu

GRADING AND ATTENDANCE POLICY

The final grade for the course will be based on the timeliness and quality of all submissions leading to and including the final paper (no extensions of the final paper deadline will be given by the Professor -- any extensions will have to be granted by the Dean's Office). These submissions will include required exercises, required outlines, required drafts, and the final paper. The quality of your logical analysis of legal reasoning will count significantly in the grade, as well as the extent to which you incorporate materials discussed in class and in the assigned readings.

The final grade may also result from a “bump” up or down one grade to reflect quality of class preparation and class participation.

The final grade may also result from a grade lowering for absences from class (see below).

You must notify me about and explain all absences from class, using email. Having more than two absences, even if explained, may result in a lowering of your final grade, as discussed above.

In addition, the rules of the New York State Court of Appeals and the American Bar Association require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of the regularly scheduled classes in this course. Thus, you may miss no more than 4 class-hours in this 2-credit course.

I will provide sign-in sheets for each regularly scheduled class, which shall be the dispositive evidence regarding your absence from a given class. Each student is responsible for signing in. Falsification of sign-in sheets is a violation of the Code of Academic Conduct.

If you exceed the permitted absences by failing to sign in, you may be administratively withdrawn from the course. No prior notice may be given, and you will receive notification from the Office of Academic Records indicating the withdrawal. Any such withdrawal may have serious ramifications for your
financial aid, academic standing, and date of graduation. If you are excessively absent from several
classes, you may face additional sanctions, including but not limited to denial of certification of good
and regular attendance to the New York State Board of Law Examiners, or other state bar examiners.

If you believe you must be absent from class for more than the permitted number of hours, you should
contact the Office of Student Affairs as soon as possible. Accommodations may be made for students
who must be absent for religious reasons and in cases of truly compelling hardship. Any request for an
exception must be accompanied with appropriate documentation.

REQUIRED TEXTS

The only required textbook is the Federal Judicial Center, Reference Manual on Scientific
Evidence (Third Edition 2011). Any assigned reading designated "RM" is from this reference. A free
PDF copy of this reference manual is available for download from the Federal Judicial Center’s website:
www.fjc.gov (search the site for “Reference Manual Third” and download). We will use only certain
Reference Guides (Chapters) from this very long resource, so I suggest that if you print any of it, you
print only what is necessary.

Copies of rules and all assigned judicial decisions are available via TWEN/Westlaw or Lexis/Nexis, or I
will make copies available to you through Blackboard. Whenever we discuss a decision in class, please
use the PDF version (copy) of the Supreme Court Reporter or of the Federal Reporter whenever
possible, so we have identical pagination.

BLACKBOARD

For this seminar, we will be using Blackboard, not TWEN. You are automatically enrolled in
Blackboard, and you can reach it through your Hofstra Portal (My.Hofstra.edu).

CLASS SCHEDULE, OUTLINE AND ASSIGNMENTS

Date:     Topics     Assignments

20 August: Introduction to Course; Logical Analysis of Federal Rule of Evidence 702
Reading Assignment:
    Federal Rules of Evidence 401-403 (review text and Advisory Committee Notes);

Noon, Tuesday, 27 August: Deadline by which you must select, by posting to Blackboard, under
the appropriate Discussion Forum, the title and citation of the major decision (judicial or
administrative) that you will analyze in your final paper. Please post your citation to the
appropriate forum: Federal Court Decisions, State Court Decisions, Other Decisions (e.g.,
Administrative).

You are looking for a recent judicial or administrative decision with the following features: (1) it
reports some controverted decision (e.g., on admissibility or probative value) about a scientific
expert opinion; (2) it presents in some detail the arguments of the parties or other participants
about the decision to be made; (3) it discusses in detail the decision-maker’s (e.g., judge’s or
regulator’s) reasoning assessing the evidence supporting the proffered opinion; and (4) it makes
clear findings of fact and/or a final decision on the controverted issue (i.e., it does not avoid the
scientific issues because of some ancillary procedural issue).
27 August: Logical Analysis of FRE 702 and the Supreme Court Trilogy (Daubert, Joiner, and Kumho Tire)

No Reading Assignment (work on the assignments for 27 August and 3 September)

Noon, Tuesday, 3 September: Deadline by which you must select, by posting to Blackboard, under the Discussion Forum entitled “Scientific Area and Expert Opinion,” the scientific area on which you will write your final paper, followed by the legal jurisdiction/context and the legal issue presented, as well as the precise expert opinion at issue. This scientific area and expert opinion should be extracted from or closely related to the legal decision that you are analyzing.

An example:
Fingerprint identification: In a criminal prosecution in a New Jersey state court for murder in the second degree, the admissibility of an expert opinion by a fingerprint expert that a latent fingerprint obtained from the murder weapon belongs to the defendant.

3 September: Supreme Court Trilogy; Logical Structure of Evidence Assessment; DEDUCTIVE PATTERNS OF REASONING


Noon, Tuesday, 17 September: Detailed Outline for your Final Paper Due, by email to me (Vern.R.Walker@Hofstra.edu).

29 October: FIRST DRAFT (printed) of your PAPER DUE, in class.

Noon, Wednesday, 27 November: FINAL RESEARCH PAPER DUE, to Joyce Cox, Room 038U; ALSO RETURN THE FIRST DRAFT, CONTAINING MY COMMENTS.

NOTE: no extensions of the final paper deadline will be given by the Professor -- any extensions will have to be granted by the Dean's Office.