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## Introduction & Dedication to The Honorable Theodore M. McMillian, 1919–2006

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## TEACHING EVIDENCE

### INTRODUCTION & DEDICATION TO THE HONORABLE THEODORE M. McMILLIAN, 1919–2006

In conclusion of the *Saint Louis University Law Journal's* landmark fiftieth volume, the editors and staff of the *Law Journal* proudly present to you the seventh edition of our “Teaching” series—Teaching Evidence. With this latest edition, the series now expands into areas of law traditionally taught in the second and third years of law school. A course in Evidence seems to be the perfect beginning for such an expansion, for it can be said that Evidence puts one’s first-year legal knowledge to work. A lawyer in preparation for litigation *must* know the law of evidence—his or her client’s future depends on it. The law of evidence also affects lawyers in transactional practice, in the sense that it lays out what will ultimately be deemed relevant if disputes should arise. The professors who teach Evidence bear a great responsibility, not only in teaching future lawyers the black letter of evidence law—“the rules”—but also in challenging students to learn the application of these rules and the rationales behind them.

The Teaching Evidence authors have assumed this crucial task. Herein, they recount tales of both success and failure in the classroom; they make sound and convincing arguments for their teaching philosophies and strategies. Some approaches are new, and some are modernizations of (or unique takes on) traditional techniques. Some authors write generally about their Evidence class as a whole, and some write specifically on how they teach one rule of evidence. At our most aspirational, we hope that this Issue may aid professors in creating their own “perfect” Evidence course.

As we review this Issue before publication, we reflect on how this collection of articles vividly brings the Evidence course to life. For example, we picture Professor Burns’s class on the semester’s first day as he holds the Internal Revenue Code in one hand and the Federal Rules of Evidence in the other. The relief one might have enjoyed in seeing the Federal Rules in that context was surely short-lived, for it is amazing how much law is packed into so few pages. We can envision watching *Philadelphia* in Professor Avery’s class and debating the effect of Rule 403 on Joe Miller’s re-direct examination of his client, Andrew Beckett. Professor McMunigal’s graphics seem to be the

ideal aid for the student struggling with that Rule and its balancing test, as well as the finer points of the tricky character evidence rules. And we are truly jealous of those students lucky enough to enjoy Professor Seigel's war stories firsthand. Like his students, we only wish he was able to share more with us here.

Professor Imwinkelried's structure of his Evidence course, and his provocative arguments on when to teach the identification of nonhearsay, challenge us to remember how our Evidence course was structured and how identifying nonhearsay was taught to us. We are glad to embark with Professor Aiken in using evidence law on her search for "The Truth," however difficult a journey it may be. We agree with Professor Mendez that as more teaching materials and methods become available to the professor, and are implemented in the classroom, more effective learning may result. And we are excited about Professor Galves's article on his unique examination and evaluation techniques, for his is the first article in the *Law Journal's* "Teaching" series dedicated solely to the examination and evaluation of students. Such an approach could in itself transform the way many Evidence courses are taught. We hope that these pieces just mentioned, and all the contributions to this Issue, will aid in the vital tasks of learning and teaching Evidence.

Law students learn the rules of evidence in the classroom, taught hopefully by professors with the dedication and enthusiasm of those in this Issue. The success of this student-teacher relationship, however, will ultimately be measured in the courtroom, where lawyers must be prepared to test their knowledge of evidence law before the judge. We wish that we would have had the opportunity to be so tested by one judge in particular—the Honorable Theodore M. McMillian of the Eighth Circuit Court of Appeals.

Judge McMillian passed away on January 18, 2006, just as the articles for this Issue were arriving from our authors. An alumnus of our law school, Judge McMillian was a great leader of the Saint Louis community and an excellent example for students and lawyers alike. His many accomplishments have been well-documented elsewhere, including a tribute in Volume 43:4,<sup>1</sup> but we feel it appropriate to highlight one of Judge McMillian's earliest accomplishments and the special place it has in the history of the *Saint Louis University Law Journal*.

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1. 43 ST. LOUIS U. L.J. 1257, 1257-1324 (1999); *see also* The Honorable Theodore McMillian: Leading the Way, <http://www.ca8.uscourts.gov/library/mcmillian.handout.pdf> (comprehensive biography prepared in honor of Judge McMillian's September 10, 2003 portrait ceremony).

The first three issues of Volume 1 were published as the *Saint Louis University Intramural Law Review*, from 1949–1951 (one issue per year). In 1951, the name was changed to the *Saint Louis University Law Journal* and has remained as such up to the present day. The founding of the *Intramural Law Review* happened to coincide with Theodore McMillian’s final year of law school at Saint Louis University, and he served as one of two associate editors for the first issue of Volume 1. At that time, the editorial board consisted of thirteen members—the editor (in chief), two associate editors, and ten staff editors. In the fifty-seven years since Volume 1:1, the *Law Journal* has grown to fifty members and four issues published annually. Each year we build on the leadership and experience of our previous editors, and we proudly count Judge McMillian as one of our first.

We find it especially appropriate to dedicate this Teaching Evidence issue to the memory of our editor turned judge. As the articles here will testify, the field of Evidence and the art of teaching it constantly focus on the role of the judge. The judge, both at trial and on appeal, is the ultimate interpreter of the law of evidence. We are pleased to honor Theodore M. McMillian, one of our great judges, with this last issue of Volume 50.

MATTHEW C. MELTON  
MANAGING EDITOR

TIM MCFARLIN  
EDITOR IN CHIEF

