

Kankakee Community College Syllabus

Course prefix and number: PLAS 2333

Course title: THE LAWS OF EVIDENCE, Spring 2018

Credit hours/Length: Lecture hours: 3 Clinical/Lab hours: None

Catalog description: This course provides a detailed review of the rules of evidence and emphasizes the role and importance of these rules to any legal action. The course specifically emphasizes how the paralegal assists the attorney in recognizing and identifying admissible evidence and the challenges to admissibility of evidence.

The following are prerequisites:

1. Admission to the Paralegal/Legal Assistant Studies Program;
2. PLAS 1123 (Legal Research & Writing I);
3. PLAS 1213 (Civil Litigation);
4. PLAS 1133 (Legal Research & Writing II) may be taken concurrently with this course.

Faculty

The Honorable J. Imani Drew
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Office Location/Office Hours

Business Division Adjunct Faculty Office (in Votech) or Dr. Condon's office (D116) by appointment only.

Textbook(s) and Other Materials

- A. Buckles, Thomas. Laws of Evidence. West Legal Studies, 2003.
- B. DeVito, Gino. The Illinois Rules of Evidence: A Color-Coded Guide. Illinois State Bar Association, 2013.
- C. You will also need your LexisAdvance account to download statutes and cases during the course of the semester.

Instructional Methods

Methods will include lectures, discussions, in-class and library research and writing projects, and individual assignments and activities.

Relationship to academic programs and transferability

The Laws of Evidence was designed to meet specific student needs, either individually or within a program. Transferability of this course will be determined by each transfer institution. Please see an academic advisor for an explanation concerning transfer options. Refer to the IAI web page at www.itransfer.org for more information.

Course Goals and Learning Outcomes

At the conclusion of this course, you, the legal professional, will be able to:

1. Discuss the history and development of the laws of evidence;
2. Explain the role and importance of the laws of evidence to any legal action;
3. Recognize and identify, under attorney supervision, various examples of admissible evidence;
4. Identify, under attorney supervision, the challenges to the admissibility of evidence and draft related documents challenging such admissibility for attorney review;
5. Examine and explain the role of the witness in the trial process;
6. Develop strategies, under attorney supervision, to determine the competency and credibility of the witness and/or to impeach the witness in the trial process;
7. Define and describe opinion evidence and demonstrate to an attorney the differences between a lay opinion and an expert opinion;
8. Define the hearsay rule and draft appropriate documentation related to the well-recognized exceptions for attorney review;
9. Incorporate competency-based learning with practice-based principles.
10. Draft motions in limine that demonstrate your practical paralegal skill development for your internship portfolio.

Evaluation of Student Performance

See the Course Calendar and Homework Table for this session. Homework will generally be due at the start of a class period as noted in this syllabus. All homework is to be stapled, with your name on the top page, along with a description of the homework assigned. For example:

John Smith
PLAS 2333
Review Problem 3
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Homework that is not clearly labeled and stapled will be returned to the student ungraded.

Students are expected to submit homework on the evening it is due. The final homework grade will be reduced by 10% (1 letter grade) per class period until the homework is submitted. The exception to this rule is if you are absent on the date a homework assignment is due; in that case, the due date is automatically extended to the date you return for your next class without any reduction in points. All homework will be submitted in typewritten format (typewriter or PC acceptable) unless otherwise directed by the instructor.

The instructor reserves the right to alter or modify the content of an assignment or its position in the course calendar.

The points will be apportioned as follows:

90-100% of total points possible = A
80-89% of total points possible = B
70-79% of total points possible = C
60-69% of total points possible = D
Under 60% of total points possible = F

The grades will be weighted as follows:

Approximately 55% of final course grade:	Exams
Approximately 25% of final course grade:	Motions in Limine
Approximately 15% of final course grade:	Weekly Homework
Approximately 5% of final course grade:	Class Discussion

Course Policies: Please review these carefully.

You will be allowed a total of three absences for this semester. I reserve the right to inform you that your successful completion of the class is being jeopardized when you have missed your third class. I also reserve the right to request that you withdraw from the class with a grade of "W" when you have missed your fourth class. Each absence in excess of three will result in a one letter grade reduction of your final course grade. Class will begin promptly; students are expected to be on time for class and are strongly encouraged to get notes from fellow students if they miss a class.

As is the case in all KCC computing labs and classrooms, no food, drink, or smoking is permitted. Children are also not permitted in the labs.

The Program's in-class examination policy is pursuant to Section 4.1 of the Code of Campus Affairs and Regulations, which states that "permission to make up work missed because of absence may be granted at the instructor's discretion." For in-class examinations, there are no makeups allowed for any reason except your personal illness, which must be documented with an original note explaining the absence which is signed by the treating physician. A makeup for a medical reason requires notification to the instructor no later than 3:00 p.m. on the day of the in-class examination. For final projects, the project is due on the assigned due date. Final projects received after the due date will not be graded. Students may not use notes, books, or reference materials on examinations unless specifically authorized to do so by the instructor. Students are to turn off all cell phones and pagers during an examination. Sending and receiving e-mails, instant or text messages, or other forms of electronic communication during the exam are strictly prohibited. Students are expected to be on time for exams and will not be given additional time to complete an exam due to a late arrival.

It is assumed that all course assignments and examinations represent the student's own efforts. Any impropriety, or appearance of impropriety, will result in a minimum of a "zero" for that assignment/examination and possible removal from the course. In addition, any student found copying software for personal use or altering settings on the computers (beyond the scope of any classroom assignment) will be removed from the course.

In addition, all assignments shall be submitted with a cover sheet containing this statement regarding academic honesty:

Because academic dishonesty fundamentally undermines the mission of KCC's PLAS Program and diminishes my individual efforts and those of my classmates, I certify that this work product is the result of my own independent and original effort; that I have completed this work product without the assistance of others unless otherwise directed by the instructor; and that I understand the syllabus's sanctions for work product meeting the definition of "impropriety or the appearance of impropriety."

The cover sheet shall also contain the student's original signature.

Each student's KCC-based LexisAdvance.com account is for academic use only. Any unauthorized use of such account to accumulate billable hours, to generate client fees, to provide work product for an internship site provider or individual authorized by statute or court rule to provide legal advice, or for any other income-producing use is strictly prohibited under the terms of the LexisAdvance Acceptable Use Policy; further, such use serves as grounds for immediate withdrawal from the course and possible sanctions under college policy.

College Policies

Withdrawals

When it is necessary to withdraw from a course or from the college, a student may do so on or before the withdrawal date stated on the syllabus without receiving a punitive final grade. Change of Schedule forms (used to add or drop a course) are available in Student Services and the student should obtain the required signatures prior to submitting the Change of Schedule form to an adviser in Student Services. Students may submit Change of Schedule forms through the mail, but they must be postmarked no later than the withdrawal date. No withdrawals are allowed by phone. The last date to withdraw with a grade of "W" is ten school days after the midpoint of the course pursuant to the Kankakee Community College catalog.

Code of Conduct

By participating in this course, the student agrees to adhere to the KCC Code of Conduct, found in each academic year's catalog, and understands that his or her classroom behavior shall be in compliance with the Code.

Inclement Weather

As a general rule, KCC will remain open during inclement weather. If the College will be closed due to inclement weather, cancellation announcements will be broadcast over Kankakee radio stations WKAN-AM, WBSW-FM, and WLRT-FM; Watseka stations WGFA-AM/FM; and Pontiac stations WJEZ-AM/FM. In addition, KCC reports campus closings at <http://www.emergencyclosings.com>.

Use of KCC Student E-mail Accounts

To ensure a student's privacy under all applicable education laws and to facilitate timely interactions, two College-authorized methods of electronic communication exist: KCC-issued student email accounts (using the domain name of .student.kcc.edu) and the Canvas Learning Management System. Students are expected to regularly check their KCC email accounts and Canvas for important incoming communication from the college or from individual instructors. Students understand that emails they send from personal email accounts (other than those listed above) may not be delivered to the KCC recipient, and students should have no expectation that such messages will be answered.

Non-Attendance/Non-Participation

KCC complies with state law and federal financial aid policy. If you receive an attendance grade of F or are institutionally withdrawn from a course, it will affect your eligibility for financial aid. (1) You must attend at least one class, or participate at least once for an online course (logging in without participation is not attending), by the 10th day of 16 week courses or within the first 10% of shorter term classes. Non-attendance will result in an attendance grade of F. (2) If you have excessive absences and no reasonable chance of passing the course at midterm (or after), your instructor may give you a WX grade and have you institutionally withdrawn from the course.

College Resources

Writing Lab

KCC's Writing Lab is now paired with the English Department. Tutors have been trained by English faculty in an attempt to better align classroom instruction with tutor advice. The lab is free and available on a walk-in basis to support students of all levels and at all points throughout the writing process.

Location: L341. For a current tutoring schedule, go to <http://www.kcc.edu/tutoring>.

Office of Disability Services

KCC offers advisement and special instructional support for students who are physically and learning disabled, as well as those with academic deficiencies. Students will receive appropriate academic instructional support, including preparatory courses, tutorial assistance, study skills assistance, and self-instructional programs. For disability services, go to room D234, Tel: 815-802-8632.

Miner Memorial Library

The Miner Memorial Library provides a variety of services free to students, including books, computer access, Wi-Fi access, and numerous research databases available online. Reference librarians are also available to assist in locating information. The library is open Monday through Friday and online resources are available 24/7. For additional information go to <http://www.kcc.edu/library>.

Syllabus Disclaimer

The course syllabus and calendar are subject to change.

Copyright

The materials on this course are only for the use of students enrolled in this course for purposes associated with this course. Further Information regarding KCC's copyright policy is available at <http://www.kcc-online.org/copyright/policy.html>.

Legal Disclaimer

Everything that is discussed in the classroom or individually with the instructor is strictly for educational purposes only. The instructor will not and does not provide legal advice to any student, nor shall any comments from the instructor be considered legal advice.

Course Calendar Detailing Subject Coverage and Homework Table

Class Date	In-Class Activity (Each Class is 2.5 Hours in Length)	Subject Matter Outline	Evaluation Tool(s) and How Competency of Course Objective(s) Is Evaluated When you are answering chapter review questions this semester, write out the question along with the answer.
<p>Week 1: Thursday, 1/11/2018</p>	<ul style="list-style-type: none"> • Review Course Syllabus and Expectations • Review text • Discuss motion in limine drafting assignment due at the end of the semester • Chapter 1, "Nature and Development of Evidence Law" • Chapter 2, "Role of Evidence Law" • Appendix A, "Thinking Law" • Appendix B, "How to Brief a Legal Case" • Appendix C, "IRAC Method of Legal Analysis" 	<p>Nature and Development of Evidence Law</p> <ul style="list-style-type: none"> A. What is Evidence? B. The Nature of Evidence Law C. Why We Have Evidence Law D. Where Evidence Law Comes From E. Development of the Adversary System F. Development of the Jury System G. Development of Common Laws of Evidence H. Development of Statutory Laws of Evidence I. Where Evidence Law is Found Today <p>Role of Evidence Law</p> <ul style="list-style-type: none"> A. How Public Policy Influences the Role of Evidence Law B. Goals and Purposes of Statutory Evidence Rules C. Role of Evidence Law in the Ascertainment of Truth D. Role of Evidence Law in Ensuring Fairness E. Role of Evidence Law in Promoting Efficiency F. Role of Evidence Law in Proving a Case 	<ul style="list-style-type: none"> • Read and be ready to discuss Chapters 1 and 2 and Appendices A, B, C, and D.

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		G. Burden of Proof H. Standards or Degrees of Certainty in Burdens of Proof I. Presumptions and Inferences J. Effect of a Presumption in a Civil Action K. Presumptions in Criminal Cases	
Week 2: Thursday, 1/18/2018	<ul style="list-style-type: none"> Chapter 3, "Gathering and Presenting Evidence at Trial" 	Gathering and Presenting Evidence at Trial A. How Evidence Law Influences the Information-Gathering Process B. Types of Evidence C. Forms of Evidence D. Exculpatory Evidence E. Judicial Notice F. Stipulations G. Gathering Evidence to Establish a Case H. Gathering Evidence to Prove a Case I. Preparing Evidence and Exhibits for Trial J. Presenting Evidence at Trial K. Identification and Authentication L. What Is Not Evidence? M. Making the Record	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 3. Chapter 1 You Be the Judge 1.1, p. 4. Read the hypothetical and answer the questions regarding evidence and its admissibility. Be sure to explain your reasons. (OBJECTIVES 1, 2, 9) Chapter 1 Critical Thinking Questions 1.5, #2 & #3 only, p. 10. For #2, should we keep our jury system or have cases tried only before a judge? Explain your reasons. For #3, is it really possible to find an uninformed, unbiased jury or a jury of your peers? Explain your reasons. (OBJECTIVES 1, 2, 9) Chapter 2 Critical Thinking Questions 2.2, #1 only, p. 30. Should a plaintiff have to prove each and every element of legal action in order to win? Is it not enough if most of the elements have been established? Explain your answer. (OBJECTIVES 1, 2, 3, 4, 9) Chapter 2 You Be the Judge 2.1, p. 24. Using the hypothetical presented in the text, write a memo analyzing whether you would grant the defendant's motion to dismiss or for a directed verdict. (OBJECTIVES 2, 3, 4, 9)

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Week 3: Thursday, 1/25/2018	<ul style="list-style-type: none"> Chapter 4, "Challenges to Admissibility of Evidence" 	Challenges to Admissibility of Evidence A. Challenges to Admissibility of Evidence B. Pretrial Challenges C. Challenges During Trial D. Challenges After Trial E. Plain Error	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 4. Chapter 3 Critical Thinking Questions 3.2, #1 only, p. 67. What is exculpatory evidence, and what safeguards are in place to ensure that this information is provided to the defense? Explain your answer. (OBJECTIVES 3, 4, 9) Chapter 3 Critical Thinking Questions 3.3, #1 and #2 only, p. 69. For #1, when may a judge take judicial notice? For #2, what is the reasoning behind allowing judicial notice of certain facts rather than requiring a party to prove the fact? Explain your answer. (OBJECTIVES 3, 4, 9) Chapter 3 You Be the Judge 3.1, p. 71. Write a memo analyzing whether you would grant the defendant's motion to dismiss for lack of a prima facie case. (OBJECTIVES 3, 4, 9) Chapter 3 Critical Thinking Question 3.5, #3 only, p. 91. For #3, why are we concerned about the chain of custody for certain evidence presented at trial? (OBJECTIVES 3, 4, 9)
Week 4: Thursday, 2/1/2018	<ul style="list-style-type: none"> EXAM #1 (CHAPTERS 1, 2, 3, AND 4) 		
Week 5: Thursday, 2/8/2018	<ul style="list-style-type: none"> Chapter 5, "Relevancy" 	Relevancy A. Common Law Requirement: Relevant and Material B. Modern Requirement for Admissibility: Relevancy C. Logical and Legal Relevance D. Exclusion of Relevant Evidence on Grounds of Prejudice	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 5. Chapter 4 Critical Thinking Questions 4.1, #3 only, p. 99. Why do you think the motion in limine is so important in challenging evidence? (OBJECTIVES 4, 9, 10) Chapter 4 You Be the Judge 4.2, p. 123. Explain whether you agree with the government or Frady and how you would rule on Frady's motion to vacate his sentence based on erroneous instructions given by the judge to the jury at his trial. (OBJECTIVES 4, 9) Chapter 4 Practice Application 4.1, p. 127. On behalf of each defense, name the objection you would raise, if any,

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		E. Exclusion of Relevant Evidence on Grounds of Confusion, or Waste of Time	and your grounds for raising the objection. (OBJECTIVES 4, 9)
Week 6: Thursday, 2/15/2018	<ul style="list-style-type: none"> Chapter 7, "Witnesses and Competency" 	Witnesses and Competency A. Role of Witnesses in the Legal Process B. Where Witness Laws Came From C. Witnesses and Due Process D. Witnesses and Competency E. Elements of Competency F. Competency of Children as Witnesses G. Competency of Judge or Juror as Witness	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 7. Chapter 5 You Be the Judge 5.1, p. 137. In a civil action for negligence, plaintiff alleges that defendant caused a car accident by talking on a cell phone and not paying attention to traffic. Plaintiff wants to introduce evidence that defendant had a prior conviction for drunk driving. Would you allow this evidence? Why or why not? (OBJECTIVES 5, 6, 9) Chapter 5 You Be the Judge 5.2, p. 138. Defendant is on trial for treason in being an American Taliban. The prosecution wants to introduce photographs and film of the attacks against the World Trade Center towers, even though the defendant has not been charged in connection with these acts. The defense objects to these photographs and film as irrelevant and prejudicial. Would you allow this evidence? Why or why not? (OBJECTIVES 5, 6, 9)
Week 7: Thursday, 2/22/2018	<ul style="list-style-type: none"> Chapter 8, "Witness Examination and Credibility" 	Witness Examination and Credibility A. Examination of Witnesses B. "Mode and Order" of Questioning Witnesses C. How Witnesses Are Examined on the Stand D. Witness Examination and Credibility E. Ensuring Witness Credibility F. Witness Preparation G. Direct Examination H. Forgetful Witness	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 8. Chapter 7 Critical Thinking Questions 7.1, #1 & #2 only, p. 183. For #1, why do we need witnesses? For #2, could we not speed up the trial process and still achieve the same goals by having the judge or attorneys read written statements or summaries from witnesses? (OBJECTIVES 5, 6, 9)

Class Date	In-Class Activity (Each Class is 2.5 Hours in Length)	Subject Matter Outline	Evaluation Tool(s) and How Competency of Course Objective(s) Is Evaluated When you are answering chapter review questions this semester, write out the question along with the answer.
		I. Examining Witness Concerning Prior Statement J. Cross-Examination K. Interrogation of Witnesses by the Court L. Religious Beliefs or Opinions M. Exclusion of Witnesses	
Week 8: Thursday, 3/1/2018	<ul style="list-style-type: none"> EXAM #2 (CHAPTERS 5, 7, AND 8) 		
Week 9: Thursday, 3/8/2018	<ul style="list-style-type: none"> NO CLASS—SPRING BREAK. 		
Week 10: Thursday, 3/15/2018	<ul style="list-style-type: none"> Chapter 6, “Character Evidence” 	Character Evidence A. Character Evidence B. Evidence of Prior Bad Acts and Other Crimes C. Habit and Routine Practice D. Subsequent Remedial Measures E. Inadmissibility of Pleas F. Victim’s Past Sexual Behavior G. Evidence of Similar Crimes in Sexual Assault Cases	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 6. Chapter 8 Critical Thinking Questions 8.2, #1 & #2, p. 207. For #1, what do you think is the most important reason for preparing a witness before trial? For #2, what conflicts or issues might arise from preparing a witness as to the questions asked on the stand? (OBJECTIVES 5, 6, 9) Chapter 8 You Be the Judge 8.1, p. 218. In a civil action for employment discrimination based on age, plaintiff is questioned on direct examination about his work record and the steps which led up to his being fired from his job. On cross-examination, defense asks plaintiff, “How many times have you been fired before?” Plaintiff objects that this question goes beyond the scope of direct examination. Would you allow this question? Why or why not? (OBJECTIVES 5, 6, 9) Chapter 8 Critical Thinking Questions 8.4, #2 only, p. 218. For #2, which do you think is more important on cross-examination: eliciting information from a witness that will

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			support your case, or discrediting the witness? Explain your reasons. (OBJECTIVES 5, 6, 9)
Week 11: Thursday, 3/22/2018	<ul style="list-style-type: none"> Chapter 9, "Impeachment of Witnesses" 	Impeachment of Witnesses A. Impeachment of Witnesses B. Who May Impeach? C. Impeachment by Bias D. Impeachment by Evidence of Character E. Opinion and Reputation Evidence F. Specific Instances of Conduct G. Use of Character Evidence Today H. Impeachment by Conviction of Crime I. Crimes Involving Dishonesty J. Criminal Defendant as Witness K. No Comment Rule	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 9. Chapter 6 You Be the Judge 6.1, p. 165. Explain whether you would allow evidence that the mother, who is currently being prosecuted for child neglect, had been previously convicted for child abuse. (OBJECTIVES 5, 6, 9) Chapter 6 You Be the Judge 6.2, p. 178. Explain whether you would allow evidence that the stepfather, who has been charged with child molestation, had allegedly molested the victim's sister, who is testifying as a witness. (OBJECTIVES 5, 6, 9)
Week 12: Thursday, 3/29/2018	<ul style="list-style-type: none"> Chapter 10, "Opinions and Expert Testimony" 	Opinions and Expert Testimony A. What is Opinion Testimony? B. Why We Allow Opinion Testimony C. Opinion Testimony by Lay Witnesses D. When Opinion Testimony by Lay Witnesses Can Be Admitted E. What Lay Witnesses Can Testify to F. Opinion Testimony by Expert Witnesses	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 10. Chapter 9 Critical Thinking Questions 9.2, #1 only, p. 232. What type of bias is necessary for impeachment purposes? (OBJECTIVES 5, 6, 9) Chapter 9 You Be the Judge 9.1, p. 239. Defense seeks to impeach plaintiff's witness by offering evidence of two prior juvenile proceedings. Would you admit this evidence? Why or why not? (OBJECTIVES 5, 6, 9)

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		G. When Opinion Testimony by Expert Witnesses Can Be Admitted H. Bases of Opinion Testimony by Experts I. Opinion on Ultimate Issue J. Court Appointed Experts	
Week 13: Thursday, 4/5/2018	<ul style="list-style-type: none"> EXAM #3 (CHAPTERS 6, 9, AND 10) 		
Week 14: Thursday, 4/12/2018	<ul style="list-style-type: none"> Chapter 12, "Hearsay" 	Hearsay A. Hearsay Rule B. What is Hearsay? C. Where the Hearsay Rule Comes From D. Reasons for the Hearsay Rule E. Defining Hearsay F. Nonverbal Conduct G. Test to Determine Hearsay H. Statements Which Are Not Hearsay I. Prior Statement by Witness J. Admission by a Party-Opponent K. Hearsay Within Hearsay L. Effect of Hearsay Objection	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 12. Chapter 10 You Be the Judge 10.1, p. 259. Do you believe the lay witness's opinion as to defendant's mental condition should be admitted? Explain. (OBJECTIVES 6, 7, 9)
Week 15: Thursday, 4/19/2018	<ul style="list-style-type: none"> INDIVIDUAL APPOINTMENTS TO DISCUSS AND REVIEW MOTION IN LIMINE ASSIGNMENT. 		

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Week 16: Thursday, 4/26/2018	<ul style="list-style-type: none"> Chapter 13, "Exceptions to the Hearsay Rule" 	Exceptions to the Hearsay Rule A. Exceptions to the Hearsay Rule B. Exceptions to the Hearsay Rule When Availability of the Declarant is Immaterial C. Declarant Unavailable to Testify D. Exceptions to Hearsay Rule Where Declarant Unavailable E. Catch-All Exception	<ul style="list-style-type: none"> Read and be ready to discuss Chapter 13. Chapter 12 You Be the Judge 12.1, p. 301. Would you admit the testimony of a witness who says he heard defendant call plaintiff a "thief"? Or is the statement hearsay? Explain. (OBJECTIVES 8, 9)
Week of 4/30/2018- 5/4/2018	<ul style="list-style-type: none"> LAW WEEK ACTIVITIES. 		
Week 17: Thursday, 5/3/2018	<ul style="list-style-type: none"> Semester review 		<ul style="list-style-type: none"> Motion in Limine assignment due.
Week 18: Thursday, 5/10/2018	<ul style="list-style-type: none"> EXAM #4 (CHAPTERS 12 AND 13) Exam to be administered pursuant to KCC's Final Exam Schedule. 		