



Federal Rules of Evidence 2016-2017 Statutory and Case Supplement to Fisher's Evidence (University Casebook Series)

By George Fisher

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This statutory and case supplement incorporates the latest statutory changes and proposed revisions and the most recent U.S. Supreme Court decisions bearing on evidence law.

The statutory component of this volume reflects the recent amendments to Federal Rules of Evidence 801(d)(1)(B), 803(6)(E), 803(7)(C), and 803(8)(B), all of which took effect on December 1, 2014. Also included are proposals to amend Rule 803(16) and to add two new authentication rules, 902(13) and 902(14). The Advisory Committee's Notes to all these changes and proposals, together with explanatory editor's notes, appear as well.

The statutory component also presents a side-by-side reprinting of the older (pre-2011), unstyled Federal Rules of Evidence and the newly restyled rules to allow for ready comparison. Editor's notes point out those areas where the restyling project, contrary to its authors' claimed intentions, worked substantive changes in the rules.

The case supplement analyzes the Supreme Court's 2015 decision in *Ohio v. Clark* as well as its 2014 ruling in *Warger v. Shauers* and 2013 ruling in *Salinas v. Texas*. *Clark* addresses whether the admission against the defendant of a young child's allegation of abuse, made out of court and offered in lieu of the child's testimony at trial, violated the defendant's confrontation right. *Warger* raises questions concerning the application of Rule 606(b). And *Salinas* examines the prosecution's use in its case-in-chief of a suspect's silence in response to noncustodial police questioning.

The supplement also addresses the Supreme Court's recent grant of certiorari in *Peña-Rodriguez v. Colorado*. The Court will consider whether the Sixth Amendment's guarantee of an impartial jury overcomes Rule 606(b) and its state-law equivalents and permits defendants to present juror testimony about case-related expressions of ethnic bias in the jury room. Oral argument is set for October 11, 2016.

Throughout the supplement, those who teach with Fisher's *Evidence* (3d ed. 2013) will benefit from paginated cross-references between the casebook and the supplement.

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