The Federal Rules set out the law of evidence in the federal system, and these Rules have been adopted—with some variation—in 45 of the 50 states (a list of adopting states is found in footnote 2 of Chapter 1). American evidence law is unified around these Rules, and they are a natural focal point for the study of the subject. The Problems and cases in this book, and the narrative presentations too, apply and shed light on the Rules and how they work.

This edition of the book, which has now been in use for more than a quarter of a century, is substantially revised and reformatted. Some cases, particularly in the Crawford line of decisions interpreting confrontation rights, no longer seem so important that they should be experienced in full text, and these are presented in summary form. New Problems have been added, and the Notes are substantially revised to provide more guidance to students. The book has been redesigned to be more user-friendly, and of course it is available in an online version. We have added two new features, in the form of Picture boxes and Comment/Perspective boxes, and these are set out to differentiate them from other features of the book. The purpose of the Picture boxes is to add human interest to the materials, and the purpose of the Comment/Perspective boxes is to provide broader perspectives that should assist in understanding doctrine.

Reactions of professors and student users have strengthened our conviction that understanding evidence law requires more than cases. We consider the present work to be a coursebook that combines the strengths of standard materials, such as casebooks, collections of problems, and hornbooks. We set out basic ideas as narrative, and use Problems to present issues that arise every day. There are enough facts in the Problems to make evidence issues concrete and vivid. We hope these materials are self-contained—we think a conscientious student can grasp what is important about the subject from this book alone, without constantly going elsewhere to fill in gaps.

Evidence law is interesting because of its kinship with epistemology and its grounding in the real world of an adversary system: In the American courtroom, how do we go about finding the facts? Evidence law seeks to regulate a process of inquiry in a setting where lawyers, witnesses, courts, and jurors are important players. We encounter issues of policy, principle, and philosophy, often with constitutional dimensions. And because the Rules are, after all, rules—they are words with prescriptive meaning that is clear in core cases and less clear as we move away from the core—we grapple as well with narrow issues of application and construction. This book aims to raise both the larger and the
narrower issues, to be philosophical and policy-oriented as well as practical and concrete.

These are the Problems that are new in this edition: Problem 4-B ("He Thinks I'm His Wife"), which rests on (and substitutes for) the Supreme Court's somewhat confused opinion on prior consistent statements in the Tome case; Problem 4-M ("Where Did She Fall?"), which explores the medical statements exception in FRE 803(4); Problem 4-N ("You Can't Offer A Police Report"), which explores uses of police reports in criminal cases under the public records exception in FRE 803(8); Problem 5-H ("The Undercover Cop Trick"), which explores use of prior acts to prove plan or scheme (replacing an earlier problem); Problem 12-F ("The Disclosure Was Inadvertent"), which explores the operation of the privilege waiver provision in FRE 502.

We offer what we call a coursebook, and claim for it a kind of completeness not found in the usual casebook, but students sometimes find it useful to resort to secondary sources (full narrative accounts) in pursuing their study of evidence law, seeking additional explanation or further coverage. We have written a student text (often called a hornbook) that presents a straightforward account of the subject, including an analysis of each Rule and descriptions of doctrinal developments, with reference to the important decisions in point. See Christopher B. Mueller and Laird C. Kirkpatrick, Evidence (5th ed. Aspen, 2012). This book, which is available in law school libraries, is published in both hardbound and softbound format (with different cover designs). Many other excellent studies are readily available, and we recommend these:

McCormick on Evidence (7th ed. 2014) (single-volume source)
Charles Wright & Kenneth Graham, Federal Practice and Procedure, volumes 21-26A (FRE 101 through Rejected Rule 513); 27-29 (C. Wright & V. Gold) (FRE 601-706); 30 (K. Graham) (Hearsay Policy); 31 (FRE 801-1103) (M. Graham)

Before the revision culminating in this Eighth Edition, Aspen surveyed professors who used prior editions or were familiar with them. Many were generous in providing suggestions and criticisms that we received anonymously. We looked at everything, learned from what people had to say, and made many
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