



UNIFORM EVIDENCE LAW GUIDEBOOK

JOHN ANDERSON AND ANTHONY HOPKINS

CHAPTER 9: OPINIONS, JUDGMENTS AND CONVICTIONS

ADVICE FOR STUDENTS – TRIAL OF JAMES SWIFTY

Witness: Dr Reeba Science

- Read the instructions in the text at the end of Chapter Nine carefully. You must keep the facts in issue squarely in your mind. At this stage, for the purpose of the criminal trial thread scenario, you are expected to be able to understand and apply the following sections of the Evidence Act: 28, 37, 55, 56, **76, 79, 80**, 137, **138**, 141, 142 & 189.
- You have been asked to make submissions in relation to specific sections and specific cases. Whilst other sections and cases will undoubtedly be important, you must ensure that you are on top of focus legislative provisions and cases. This means you must be ready for basic questions such as:
 - What were the facts in that case? What were the facts in *issue*?
 - Why was it the subject of appeal?
 - How did the relevant section(s) come into play?
 - What part of the relevant section(s) came into play?
 - How were the sections construed?
 - What considerations or factual circumstances were taken into account by the judge or judges?
- Once you have understood the relevant legislative provisions and focus cases, you should analyse the witness statement of Dr Science carefully. You should repeatedly ask yourself questions about the relevance of the evidence, its practical importance and any potential prejudice. In addition, you must now identify any opinions expressed and consider whether they are based upon specialised knowledge.

- Given that Dr Science will be cross-examined on a *voir dire* each counsel should prepare questions designed to establish or undermine the basis of any opinions, and the 'link' between the opinions and the specialised knowledge.
- You will not have long to make submissions so get right to the point.
- **Specific Questions** that may be asked by judges in this exercise include?
 - What precisely are the opinions expressed by Dr Science? Identify each one. How are the opinions relevant to the facts at issue?
 - Which of these opinions do you rely upon or object to?
 - Do the opinions go to establish identity or similarity? Does this matter?
 - What is the specialised knowledge claimed by Dr Science?
 - When will knowledge be considered 'specialised knowledge'?
 - What is facial mapping? What is body mapping?
 - Are the opinions based on specialised knowledge?
 - To what extent does the court have to be able to understand/evaluate the basis and reasoning for the opinion?

© Anthony L Hopkins 2014