

PREFACE TO THE EIGHTH EDITION

My father, Charles Brendan Gibbons, would lovingly remind me, as sarcasm was our love language, that he had forgotten more law than I would ever know. He was the best legal mind I've ever encountered, and our family was comforted by the legions of folks from judges to fellow attorneys to an inmate or two who noted this in their letters of condolence.

Mr. Charlie, as he was called by his eight grandchildren, had an abiding faith, was proud of his Jesuit education [Scranton Prep, the University of Scranton, and Boston College Law] and he lived by the Jesuit principle as expressed by Pedro Arrupe—“men and women who cannot even conceive of love of God which does not include love for the least of their neighbors; men and women completely convinced that love of God which does not issue in justice for others is a farce.” So I was especially touched by messages that noted while Charlie was a giant in the legal community, known for his acumen, he was known more importantly for his wit and kindness.

My father wrote the first version of this “trot” when I was a young lieutenant in the U.S. Army Judge Advocate Generals' Corps—hence the inclusion of the Military Rules of Evidence as a small hat tip to the first of his two daughters to follow in his legal footsteps. As he wrote each and every one of his tomes by hand, I was promised a truck full of ice cream if I would Shepardize all the cases.

I extend my sincere gratitude to the “young attorneys” who practiced with my father: Chris Amar, Victoria Kush, Brian Simmons, Eric Spada and Jordan Webster, who held my mother and I up with food, stories & laughter, and who came up with the idea of giving away ties at my father's memorial service. And to my father's administrative assistant, Phyllis Stock, who did yeomen's work over the years translating my father's scribblings on those

FEDERAL TRIAL OBJECTIONS

11 x 14 pages into coherent type.

I was blessed early in my legal career with the mentorship of two extraordinary women: Theresa Williams-Harris, the senior law clerk for the late Honorable Donald E. Ziegler when I was lucky enough to serve in his chambers, and LTC (Ret.) Paulette Vance Burton, my very first boss in the JAG Corps at 25th Infantry Division (Light), the one against whom all others were judged and who gave me my mother's favorite nickname. These lawyers set a high standard that I continue to strive to live up to.

An extra thank you to Chris Amar, a mentee of my father, and Jenny Wintergerst, a healthcare litigator at Wyatt, Tarrant & Combs, LLP, lawyer friends who acted as sounding boards when I got stuck.

Last but most certainly not least, for my children, William Terence Holland and Emily Ashling Holland, I love you. To my other half, Dr. Brian James Holland, former Army pediatrician and current baby heart doctor—I am luckier.

SARA FARLEY GIBBONS HOLLAND

Louisville, Kentucky
October, 2023

PREFACE TO THE SEVENTH EDITION

The entire premise of a trial and all the precautions underlying the admission and exclusion of evidence exist for the purpose of ensuring that verdicts are determined based on the relevant and reliable evidence presented at trial.

As Circuit Judge Robin S. Rosenbaum said in *U.S. v. Brown*, 947 F.3d 655, 662 (11th Cir. 2020):

If the right to a jury trial means anything, it means a right to a verdict based on the evidence. Indeed, the entirety of our procedural mechanisms is geared to achieve this result: we have trials so we can ensure all jurors consider the same evidence; we have an entire body of rules—the Federal Rules of Evidence—devoted to controlling the information on which jurors can rely in reaching their decision; and we expressly instruct the jurors they must determine their verdict based on the evidence.

The trial objection (advanced at the right time and for the right reason) is, of course, the mechanism for preventing improper evidence from infecting the proceeding. Hence this book.

According to the Oxford English Dictionary, a tertiary definition of the word “trot,” when used as a noun, is “a literal translation of a text used by students; a crib.” As one who, back in the mists of time, passed through a Jesuit prep school allegedly reading classics, a trot was an indispensable little friend secreted in the back of our Greek and Latin texts that helped us survive the oral recitation of Xenophon, Homer and Cicero without incurring imprecation or penal servitude at the hands of our instructors.

Fortunately, the mnemonic rigor of the classicist is not indispensable to the practice of law for as the English Court said in *Montriou and Jeffreys*, 2 C&P 113 (1825): “No attorney is bound to know all the law; God forbid that it should be imagined that an attorney or a counsel, or even a judge is bound to

know all the law.”

Thus, the modest ambition of this book (first published in 2002) is simply to be a “trot,” a quick reference to the various ways in which the courts have translated the text of the Federal Rules of Evidence, hopefully with sufficient case authority to survive or overcome a particular objection and with reference to the treatises for deeper study, when necessary. Its loftier ambition, however, is to be as useful to those who have practiced for thirty or forty years as it might be for those who are trying their first case.

I extend my sincere thanks to my wife, Patricia Kilduff Gibbons, our daughter, Attorney Sara Holland of Louisville, Kentucky, and my administrative assistant, Phyllis Stock, for the unstinting help with this edition as well as to our law librarian, Melanie Cline.

This book celebrates the 80th birthday of Alan A. Garfinkel, Esquire, friend, mentor and my law partner for over two decades until he became General Counsel of the University of Pittsburgh. Sitting second chair to Alan, I watched him try cases with great grace, skill and an acute knowledge of the facts and the law. Even opposing counsel held Alan in high esteem because, in the words of Robert Kennedy, he always treated them as “good friends and brave enemies.” A young lawyer could not have wished for a better teacher.

CHARLES B. GIBBONS

Pittsburgh
October, 2020