



Congress

Legal Evidence

Barcelona, 19th, 20th and 21st July 2010

Sponsoring universities

Universidad Pontificia Comillas (ICADE) – Faculty of Law
Universidad de Deusto – Faculty of Law
ESADE Law School. Universitat Ramon Llull

Organising university

ESADE Law School. Universitat Ramon Llull

Date

19th, 20th and 21st July 2010

Registration (except for professors, researchers and students at the universities organising this congress)

General registration: €100

Registration with visit to the Judiciary School: €110

Registration for those with papers accepted: €50

Registration with visit to the Judiciary School: €60

Venue

ESADEFORUM
Av. Pedralbes, 60-62
E-08034 Barcelona

Organising Committee

Chairman:

Dr. Xavier Abel Lluch

Director, Institute of Forensic Evidence and Probative Law, ESADE Law School

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ESADE. Law School. Vice-Dean, Academic Planning

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Director, Institute of Forensic Evidence and Probative Law, ESADE Law School

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Dr. Javier Larena Beldarrain

DEUSTO. Faculty of Law. Professor of Procedural Law

Prof. Dr. Manuel Richard González

Professor of Procedural Law

Presentation

The International Congress on Legal Evidence, organised by the Law Faculties of the Universities of Deusto, Pontificia de Comillas de Madrid and ESADE, aims to provide a broad and transversal examination of legal evidence. Presentations will explore dogmatic issues related to evidence and the advances made in Probative Law in different areas with respect to the specific theme of Forensic Evidence and how it is used to prove specific facts in a given case.

Perhaps no concept other than 'evidence' reveals greater coincidence among jurists and their requirements or causes greater bitterness in the so-called 'war of law'. Of significance, in this respect, is the phrase *o provare o soccombere* ("either show proof or withdraw") which illustrates that no one readily accepts – without much frustration – being in the right but not being able to prove it.

In Spain, this concern is eminently one of praxis. It has been reflected on in a series of articles and books, all of which have been published in Barcelona, allowing us to talk about the Barcelona School on judicial evidence. This 'school' was given great impulse by the works of professors CARRERAS LLANSANA (*La prueba de presunciones*, 1962), SERRA DOMÍNGUEZ (*La prueba de presunciones en el Código Civil*, 1963) and MUÑOZ SABATÉ (*Técnica probatoria*, 1967). In this tradition of evidence, the Faculty of Law at the University of Barcelona served as a 'womb' where various postgraduate courses on forensic evidence were originally created followed later on by similar courses at the ESADE Law School (Universitat Ramon Llull) in Barcelona, classes which are still offered to this day. Worth noting is the recent creation of the ESADE Institute of Forensic Evidence and Probative Law in September 2008. The aim of this Institute is to teach, research and inform about forensic evidence topics and Probative Law.

Evidence and the art of demonstrating are fully aware of their lamentable weakness when faced by the multiple behaviours humans adopt when set on conflict. From this stems the feeling shared by most jurists regarding the need to increasingly push for scientific advances to take advantage of them, though not always entirely aimed at proving the facts during a trial. As such, there is a call for the revision, even radical revision, of the rules of evidence involved in so-called *Probative Law* and applying logic and psychology. All this is leading to the subsequent development of a seemingly 'universal' genre used to reinforce a new rhetoric dealing with the evidence of the facts.

If we do not fully devote ourselves to study and resolve problems related to evidence, it is very likely that illicit behaviour, often sheltered by norms declaring the presumption of innocence and the weight of evidence, will end up obtaining impunity, a situation which, frankly, is very harmful to Law.

Programme

Monday, 19th July 2010

9.30 am Participants arrive

10 - 10.30 am Welcome address

Dr. Esther Giménez-Salinas Colomer
Honourable Chancellor, Universitat Ramon Llull
Dr. José Ramón Busto Saiz
Honourable Chancellor, Universidad Pontificia Comillas

10.30 - 11.30 am Inaugural presentation

La valoración judicial de la prueba ("The judicial assessment of evidence")
Honourable Mr. Rafael Gimeno-Bayon Cobos
Supreme Court Magistrate

Moderator: Dr. Xavier Abel Lluch, Director of the Institute of Forensic Evidence and Probative Law at ESADE (URL).

11.30 am -12 pm Coffee break

12 - 2.00 pm Parallel roundtables

2 - 3.30 pm Lunch

3.30 - 5.30 pm Parallel roundtables

6 - 8.00 pm Visit to the Spanish General Council of the Judiciary's School for Judges (places are limited)¹

Tuesday, 20th July 2010

10 - 11.30 am Plenary presentations

Algunas consideraciones sobre (la carga de) la prueba de determinados elementos del delito y de sus causas de exclusión ("Some considerations regarding (the weight of) evidence in misdemeanour cases and the causes for their exclusion")
Dr. Antonio Obregón García
Professor. Vice-Chancellor of Faculty at Universidad Pontificia Comillas

¹ Preference will be given to faculty members from the universities organising this Congress, members of the ESADE-URL Law School's Institute of Forensic Evidence and Probative Law and attorneys from the Congress' sponsoring law firms. The amount corresponding to this visit is €10 which includes transportation by coach to and from the ESADE-URL Law School (Barcelona) and the Judiciary School (Vallvidrera).

Reflexiones sobre la actitud del juez ante los problemas de prueba en el juicio de impugnación de acuerdos sociales: del acuerdo lesivo a la empresa paralela (“Reflections on the judge’s attitude towards problems with evidence in cases contesting labour agreements: From detrimental agreements to parallel companies”)

Dr. Pedro Miroso Martínez

Professor of Business Law. Former Dean of the ESADE-URL Law School

Los delitos de presentación de documento falso en juicio (“The misdemeanour of presenting false documentary evidence in trials”)

Dr. Juan Ignacio Echano Balsadúa

Professor of Penal Law. Former Dean of the Deusto Faculty of Law

Moderator: Dr. Enric R. Bartlett. Dean of ESADE-URL Law School

11.30 am - 12 pm Coffee break

12 -2 pm Parallel roundtables

2 - 3.30 pm Lunch

3.30 - 4.30 pm Presentation by the Institute of Forensic Evidence and Probative Law, ESADE-URL Law School. Dr. Xavier Abel Lluch, Dr. Lluís Muñoz Sabaté and Dr. Frederic Munné Catarina.

4.30 - 6.30 pm Parallel roundtables

Wednesday, 21st July 2010

10 - 11 am Plenary presentation

La taxonomía indiciaria (“A taxonomy of circumstantial evidence”)

Dr. Lluís Muñoz Sabaté

Associate Professor of Procedural Law. Attorney. President of the Institute of Forensic Evidence and Probative Law’s Board of Management, ESADE-URL Law School

Moderator: Hon. Mr. Pascual Ortuño Muñoz. Principal of the Judicial College of the CGPJ (governing body of the Spanish judiciary)

11 - 11.30 am Coffee break

11.30 am - 1.30 pm Parallel roundtables

1.30 - 2.00 pm Closing ceremony

Dr. Enric. R. Bartlett Castellà

Dean of the ESADE-URL Law School

Dr. Concepción Molina Blázquez

*Dean of the ICADE Faculty of Law
Dr. José Luis Ávila Orive
Dean of the Deusto Faculty of Law
Dr. Carlos Losada Marrodán
Director General of ESADE*

MONDAY, 19TH JULY. PARALLEL ROUNDTABLES, FROM 12 TO 2 PM

ROUNDTABLE 1. EVIDENCE AND TRUTH

GENERAL PRESENTATIONS:

1. *El proceso a la prueba y la verdad (Proceedings towards evidence and truth)*. Dr. Luis Bueno Ochoa. ICADE.
2. *De la verdad irracional a la racional. Evolución de la prueba* ("From irrational to rational truth. Change in evidence"). Dr. Alicia Duñaiturria Laguarda. ICADE.
3. *Prueba, hecho y verdad: el impresionismo en el Derecho* ("Proof, fact and truth: Impressionism in Law"). Dr. Javier Pérez Duarte. Deusto.
4. *El heurigrama: mapa de símbolos en la investigación de los hechos* ("The heurigram: A map of symbols when investigating the facts"). Elena López Capella. Attorney. Institute of Forensic Evidence and Probative Law. ESADE.

PRESENTATIONS:

5. *El método de Wigmore y la posibilidad de su aplicación en nuestra práctica jurídica* ("The Wigmore Method and the possibility of its application in our judicial practice"). Raymundo Gama Leyva. Researcher-Intern. Department of Law Philosophy. Universidad de Alicante.
6. *La alegoría de la caverna y los límites de la verdad en el Derecho probatorio iberoamericano actual* ("The allegory of the cave and the limits of truth in contemporary Latin American Probative Law"). Julio Alberto Neyra Barrantes. Attorney.
7. *Requisitos previos para el correcto proceso de valoración de la prueba* ("Prerequisites to correctly assess evidence"). Alfonso C. Auget Sangrá and Juan Fernández-Goula Pfaff. Industrial Engineers and legal experts.

ROUNDTABLE 2. EVIDENCE AND NEW TECHNOLOGIES

GENERAL PRESENTATIONS:

1. *Las nuevas tecnologías y su acceso al proceso* ("New technologies and their access to the process"). Dr. Xavier Abel Lluch. Institute of Forensic Evidence and Probative Law. ESADE
2. *Proceso y nuevas tecnologías* ("The process and new technologies"). Prof. Jordi Ferrer Guillén. Attorney. Institute of Forensic Evidence and Probative Law. ESADE.
3. *Libre evaluación de la prueba, la ciencia y el razonamiento del juez: consideraciones sobre la prueba científica y sus reflejos en casos civiles, penales y*

laborales de Brasil (“The freedom to assess evidence, science and the judge’s reasoning: Considerations on scientific evidence and their impact on Brazilian civil, penal and labour cases”). Dr. Margareth Vetis Zaganelli and Dr. Víctor Sonegheti. Universidad Federal do Espírito Santo. Study Group on Probative Law.

PRESENTATIONS:

4. *Una aplicación multidisciplinaria del análisis de los flujos de información al aseguramiento, la admisibilidad y la impugnación de la prueba electrónica en el juicio civil* (“A multidisciplinary application of information flow analysis to the reliability, admissibility and contestation of electronic evidence in a civil trial”). Prof. Oriol Camps Lorente. Assistant Professor at UPC.

5. *Hacia una construcción dogmática de la prueba electrónica* (“Towards a dogmatic construction of electronic evidence”). Joaquim Anguas. Engineer. Forensic expert.

6. *Los hechos que acreditan el fraude en los delitos producidos en la banca electrónica* (“The facts which certify fraud in electronic banking misdemeanours”). Óscar González Pla. Senior Computer Engineer.

ROUNDTABLE 3. EVIDENCE AND CIVIL PROCEEDINGS

GENERAL PRESENTATIONS:

1. *Requisitos que deben darse para la admisión de la prueba en la segunda instancia del proceso civil: análisis jurisprudencial* (“The prerequisites to admit evidence in second petitions within civil proceedings: Analysis of jurisprudence”). Dr. Marta Gisbert Pomata. ICADE.

2. *La valoración judicial de las pruebas personales en el recurso de apelación civil* (“Judicial assessment of personal evidence in civil appeals proceedings”). Dr. Óscar Monje Balmaseda. Deusto.

3. *Proceso monitorio y prueba documental* (“The monitoring process and documentary evidence”). Dr. Javier Larena Beldarrain. Professor of Procedural Law. Deusto.

4. *Incidencia del principio de adquisición procesal en el interrogatorio de las partes y los testigos* (“Impact of the procedural acquisition process when interviewing parties and witnesses”). Dr. Carolina Font Rodríguez. Professor of Procedural Law. UOC.

PRESENTATIONS:

5. *El juez y su relación con la prueba en los juicios verbales* (“Judges and their relationship with evidence in oral trials”). Oralía Soto Lamadrid. Universidad de Mesa de Otay. Tijuana. Mexico.

ROUNDTABLE 4. EVIDENCE AND THE RIGHT TO EVIDENCE

GENERAL PRESENTATIONS:

1. *El concepto de presunción legal y las denominadas presunciones irregulares* ("The legal presumption concept and the so-called irregular presumptions"). Dr. Agustín Luna Serrano. Professor of Civil Law. ESADE.
2. *El derecho a la utilización de los medios de prueba como factor de dinamización del Derecho probatorio* ("The right to use evidence as a factor to invigorate Probative Law"). Dr. M. Dolors Oller Sala. Professor of Constitutional Law. ESADE.
3. *Reflexiones generales sobre la prueba* ("General reflections on evidence"). Honourable Mr. D. Francisco González de Audicana Zorraquino. Magistrate Judge. Court of First Instance, number 38 in Barcelona.
4. *El derecho a la prueba, un derecho constitucional fundamental* ("The right to evidence, a fundamental constitutional right"). Dr. Francisco Chamorro Bernal. Attorney.

MONDAY, 19TH JULY. PARALLEL ROUNDTABLES, FROM 3.30 TO 5.30 PM

ROUNDTABLE 5. EVIDENCE AND IDEOLOGY

GENERAL PRESENTATIONS:

1. *Convergencia de la justicia material y la verdad histórica en el resultado de la prueba civil* ("The convergence of material justice and historical truth in civil proceedings results"). Dr. Manuel M. Zorrilla Ruiz. Professor Emeritus. Deusto.
2. *El juicio de hecho en la mente del juzgador: ¿cómo razona? Claves para el análisis del juicio de hecho con miras a su impugnación* ("A fact-based trial in the mind of the judge: How does he/she reason? Keys to analyse fact-based trials for their future appeal"). Dr. Carlos de Miranda Vázquez. Substitute Judge. Institute of Forensic Evidence and Probative Law. ESADE.
3. *La prueba testifical y la documental en las épocas romana y visigoda* ("Witnessed-based and documentary evidence in Roman and Visigoth eras"). Dr. Olga Marlasca Martínez. Deusto.
4. *La duda del abogado ante la prueba* ("The lawyer's doubt when faced by evidence"). Sr. Antonio Menacho de Solá-Morales. Attorney.

ROUNDTABLE 6. EVIDENCE IN FOREIGN LAW

GENERAL PRESENTATIONS:

1. *La prueba del Derecho extranjero. ¿Dónde está el problema?* (“Evidence in Foreign Law. What’s the problem?”) Dr. Joan Picó Junoy. Professor of Procedural Law. Universitat Rovira i Virgili. Institute of Forensic Evidence and Probative Law. ESADE.

2. *Imperatividad de la norma de conflicto y prueba del Derecho extranjero en los reglamentos comunitarios sobre determinación de la ley aplicable a las situaciones privadas internacionales* (“The obligatory nature of the norm of conflict and evidence in Foreign Law within Community norms on the determination of applicable law for private international situations”). Dr. Patricia Orejudo Prieto de los Mozos. Professor of International Private Law. Universidad de Oviedo.

3. *Aplicación ex officio de las normas de conflicto por parte del juez español y sus consecuencias o incongruencias* (“The *ex officio* application of conflict norms by Spanish judges and its consequences or inconsistencies”). Dr. Maria Font i Más. Department of Private, Procedural and Financial Law. Universitat Rovira i Virgili.

4. *Consecuencias de la falta de prueba del Derecho extranjero* (“The consequences of a lack of evidence in Foreign Law”). Dr. Frederic Adan Doménech. Professor of Procedural Law. Dean of the Universitat Rovira i Virgili Faculty of Law.

PRESENTATIONS:

5. *El problema de la carga de la prueba del Derecho extranjero* (“The problem with the weight of evidence in Foreign Law”). Dr. Elisabet Cerrato Gurí. Universitat Rovira i Virgili.

6. *La prueba del Derecho extranjero: examen de los medios de prueba y de su utilidad en el proceso* (“Evidence in Foreign Law: An examination of evidence and its usefulness in proceedings”). Dr. Diana Marín Consarnau. Universitat Rovira i Virgili.

ROUNDTABLE 7. INTERNATIONAL JUDICIAL CO-OPERATION

GENERAL PRESENTATIONS:

1. *La obtención de pruebas en la Unión Europea. Nuevas perspectivas dirigidas a la superación de la complejidad existente en la actualidad, en el nuevo escenario de Lisboa* (“Gathering evidence in the European Union. New perspectives aimed at overcoming the existing complexity in the current Lisbon scenario”). Dr. Coral Arangüena Fanego. Professor of Procedural Law. Universidad de Valladolid.

2. *La averiguación patrimonial de los bienes del concursado en el extranjero* (“Determining the bankrupt party’s patrimonial assets abroad”). Dr. Marta Casado Abarquero. Deusto.

3. *La prueba en los procesos civiles y administrativos en la Unión Europea. Especial referencia al derecho de la competencia* (“Evidence in European Union

civil and administrative proceedings. Special reference to laws on competition”). Dr. María Pilar Canedo. Deusto.

4. *Cooperación judicial civil internacional: la obtención de pruebas por videoconferencia* (“International co-operation on civil proceedings: Gathering evidence by videoconference”). Belén Menchón Orduna. Lecturer at the Universidad de Barcelona. Attorney.

5. *La obtención de prueba en la Unión Europea, en el ámbito penal* (“Gathering evidence in the European Union in the penal area”). Natacha González Viada. Professor in the Department of International Law. Universidad de Barcelona.

TUESDAY, 20TH JULY. PARALLEL ROUNDTABLES, FROM 11.30 AM TO 1.30 PM

ROUNDTABLE 8. EVIDENCE AND PENAL PROCEEDINGS I

GENERAL PRESENTATIONS:

1. *Videovigilancia y derechos fundamentales: los estándares del Consejo de Europa* (“Camera surveillance and fundamental rights: The Council of Europe standards”). Dr. Luis I. Gordillo Pérez. Professor of Constitutional Law. Deusto.

2. *La policía judicial y las pruebas en los procesos penales* (“Judicial police and evidence in penal proceedings”). Dr. Cristina Carretero González. Professor of Procedural Law. Universidad Pontificia Comillas Faculty of Law. ICADE.

3. *La declaración testifical del menor víctima de un delito en el marco del proceso penal* (“Declarations of underage victims within penal proceedings”). Dr. Marc García Solé and Prof. Samantha Salsench. Professors of Penal Law. ESADE-URL Law School.

4. *Los informes emitidos por laboratorios oficiales: ¿de prueba pericial a documental?* (“Reports issued by official laboratories: From expert evidence to documentary evidence?”). Prof. Pilar Ladrón Tabuenca. Lecturer in Procedural Law. Universidad de Alcalá.

5. *El informe del detective y su relación con el proceso probático* (“The detective’s report and its relation to probative proceedings”). Enrique de Madrid Dávila. Private detective. Institute of Forensic Evidence and Probative Law. ESADE.

PRESENTATIONS:

6. *El declive de la regla de exclusión en el proceso penal. Notas jurisprudenciales comparadas entre Estados Unidos y España* (“The decline of the Exclusionary Rule in penal proceedings. A comparison of jurisprudence between the United States and Spain”). José Manuel Alcaide González. Attorney.

7. *Régimen de la prueba ilícita. Una mirada desde el Derecho probatorio colombiano y comparado* (“Norms regarding illegally-obtained evidence. A look at Colombian and comparative Probative Law”). Luis Miguel Hoyos Rojas and Haylin Mantilla Corredor. Student Researchers. Universidad del Norte. Colombia.

ROUNDTABLE 9. EVIDENCE AND CONTENTIOUS ADMINISTRATIVE PROCEEDINGS

GENERAL PRESENTATIONS:

1. *La prueba del consentimiento informado y la responsabilidad de la Administración en el ámbito sanitario* (“The evidence of informed consent and the Administration’s responsibility in the health area”). Dr. Joaquim Borrell. Professor of Administrative Law. ESADE.

2. *Las limitaciones a la aportación de pruebas del artículo 158.3 de la Lei general tributaria en el ámbito contencioso administrativo* (“The limitations of providing evidence in Article 158.3 within the LGT Law in the contentious administrative area”). Dr. Francisco Javier Alonso Madrigal. Professor of Financial and Tax Law. Universidad Pontificia Comillas Faculty of Law. ICADE.

3. *El valor probatorio en el procedimiento administrativo sancionador de los hechos constatados por funcionarios a los que se reconoce condición de autoridad* (“The value of evidence in administrative sanctions for events identified by civil servants recognised as authorities”). Dr. Cristina Clementina Arenas Alegría. Deusto.

4. *Análisis crítico del estado actual de la prueba de la desviación de poder ante la jurisdicción contencioso-administrativa* (“A critical analysis of the current state of evidence regarding the abuse of power in the contentious-administrative area”). Dr. Adolfo Ruigómez Momeñe and Dr. Ramón Múgica Alcorta. Deusto.

5. *La prueba pericial económica en el ámbito contencioso-administrativo* (“Expert economic evidence in the contentious administrative area”). Miró Ayats, Jaime Bonet and Javier Treviño. Attorneys.

PRESENTATIONS:

6. *Consideraciones acerca de la prueba en el ámbito de los procedimientos de aplicación de los tributos y su eficacia en el proceso contencioso-administrativo* (“Considerations regarding evidence in tax application proceedings and their effectiveness in contentious administrative proceedings”). José María Gómez Abella and Fernando Mota Bosch. Attorneys.

7. *Prueba y proceso sancionador según la Ley 15/2007 de defensa de la competencia* (“Evidence and sanctionary proceedings according to Law 15/2007 on the defence of competition”). Julia Suderow. Attorney.

ROUNDTABLE 10. EVIDENCE AND INHERITANCE

GENERAL PRESENTATIONS:

1. *Las donaciones encubiertas en perjuicio de los herederos forzosos: a propósito de la prueba del animus donandi en la doctrina del Tribunal Supremo* (“Hidden donations in prejudice of the heir apparent: Evidence of *animus donandi* according to Supreme Court doctrine”). Dr. Ana Isabel Herran Ortiz. Professor of Civil Law. Deusto.

2. *La prueba en los procedimientos de nulidad de testamento por falta de capacidad* (“Evidence in will annulment proceedings due to incompetence”). Dr. Ainhoa Gutiérrez Barrenengoa. Deusto.

3. *La prueba del carácter oneroso o gratuito de la transmisión del causante, a los efectos del cálculo de la legítima* (“Evidence of the onerous or gratuitous character of a deceased party’s will in order to determine legitimate inheritance”). Dr. Joan Marsal Guillamet. Professor of Civil Law. ESADE-URL Law School.

TUESDAY, 20TH JULY. PARALLEL ROUNDTABLES, FROM 3.30 TO 5.30 PM

ROUNDTABLE 11. EVIDENCE IN MEDICAL MALPRACTICE SUITS

GENERAL PRESENTATIONS:

1. *El consentimiento informado como elemento principal de valoración de la lex artis en la responsabilidad médica. Los problemas de la prueba* (“Informed consent as the main evaluation criterion in *lex artis* regarding medical liability. Problems of evidence”). Dr. Federico Montalvo Jääskeläinen. Professor of Constitutional Law. ICADE. Attorney specialised in health-related Law.

2. *Análisis genéticos y error de diagnóstico: consecuencias jurídicas* (“Genetic tests and diagnostic errors: Legal consequences”). Dr. Aitziber Emaldi Cirión. Deusto.

3. *¿Cómo probar la mala práctica médica?* (“How do you demonstrate medical malpractice?”). Javier Moreno Alemán. Associate Professor of Political Science and Administration. Universidad Pontificia Comillas. ICADE. Attorney.

4. *La historia clínica como medio probatorio de la vulneración del derecho a la protección de datos de carácter personal y a la autonomía del paciente* (“Medical history as evidence of a violation of the right to privacy of personal data and patient autonomy”). Igor Pinedo García. Attorney.

PRESENTATIONS:

5. *Validez del consentimiento: cláusulas limitativas y circunstancias subjetivas del asegurado* ("The validity of consent: Limiting clauses and the insured party's subjective circumstances"). Iñigo Cid-Luna Clares. Attorney.

6. *La prueba de la negligencia médica en la atención médica en urgencias* ("Evidence of medical negligence in emergency room medical care"). Julio Albi Nuevo. Attorney.

7. *¿Cómo probar la mala práctica médica?* ("How do you prove medical malpractice?"). Eduardo Asensi Pallarés. Attorney.

ROUNDTABLE 12. EVIDENCE, FAMILIES AND FAMILY ABUSE

GENERAL PRESENTATIONS:

1. *La prueba en los procesos de filiación* ("Evidence in paternity proceedings"). Dr. Francisco Lledó Yagüe. Professor of Civil Law. Deusto.

2. *La prueba de exploración de menores y su incidencia en la atribución judicial de la guarda y custodia* ("Evidence gathered from questioning minors and its impact on legally assigning tutorship and custody"). Dr. Alberto Serrano Molina. Adjunct Professor in the Department of Private Law. Faculty of Law. ICADE.

3. *La inversión de la carga de la prueba en las reclamaciones civiles de discriminación por razón de sexo* ("Reversing the weight of evidence in civil sexual discrimination lawsuits"). Dr. Gema Tomás Martínez. Deusto.

4. *¿Cómo probar los malos tratos familiares?* ("How do you demonstrate abuse within the family?"). Dr. Montserrat de Hoyos Sancho. Professor of Procedural Law. Universidad de Valladolid.

5. *La prueba de los gastos extraordinarios de los hijos menores o incapacitados no determinados en sentencia o convenio regulador en los procesos matrimoniales* ("The evidence of undetermined additional expenses for underage or handicapped children in matrimonial sentences or agreements") Dr. Teresa Duplá Marín. Professor of Roman Law. ESADE-URL Law School.

6. *La prueba de paternidad en los reconocimientos de filiación por complacencia* ("Paternity tests in cases of voluntary paternity acknowledgement"). Dr. Beatriz Añoveros Terradas. Professor of International Private Law. ESADE-URL Law School.

7. *La prueba de la convivencia en las uniones de hecho* ("Proof of cohabitation in non-marital partnerships"). Dr. Lola Bardají Gálvez. Profesora de Derecho Civil. ESADE-URL Law School.

PRESENTATIONS:

8. *Medios de prueba para determinar la capacidad económica de los progenitores a los efectos de fijar la pensión de alimentos a favor de los hijos comunes* (“Evidence to determine parents’ economic possibilities when determining alimony payments for children’s maintenance”). Honourable Ms. Neus Soriano Collado. Substitute Judge, Court of First Instance number 8 in Rubí.

9. *La prueba en los delitos de violencia de género: Los casos de vulneración del principio de contradicción* (“Evidence in gender-related offences: Cases in which the Principle of Contradiction is violated”). Dr. Josefa Fernández Nieto. Clerk, Tribunal for Violence towards Women, number 1 in Terrassa.

10. *La prueba del maltrato familiar a través de la declaración de la víctima y de los testigos de referencia* (“Evidence of family abuse through the victim’s and the reference witnesses’ declarations”). Anna M. Solé Ramón, Substitute Prosecutor in the Superior Court of Justice of Catalonia.

ROUNDTABLE 13. EVIDENCE AND LABOUR LAW

GENERAL PRESENTATIONS:

1. *La estadística como indicio en el proceso laboral* (“Statistics as an indication in labour proceedings”). Dr. Esther Sánchez. Associate Professor of Labour and Social Security Law. ESADE-URL Law School.

2. *Una práctica muy extendida: las carencias probatorias en las calificaciones de becas como contratos laborales encubiertos* (“A very common practice: The lack of evidence in scholarship qualifications as hidden labour contracts”). Dr. Francisco Javier Arrieta Idiakez. Deusto.

3. *La conciliación de la vida laboral y familiar como excusa para el incumplimiento de las obligaciones laborales. La desigualdad probatoria. Decisiones críticas* (“The reconciliation between work and personal life as an excuse to not fulfil legal labour obligations. Probative inequality. Critical Decisions”). Dr. Fernando Manrique López. Deusto.

4. *El acoso sexual en el trabajo: la difícil prueba de la intimidad violada* (“Sexual harassment in the workplace: The difficult-to-prove violation of intimacy”). Dr. M. Carmen Sorzano Volart. ICADE.

PRESENTATIONS:

5. *La prueba de uso indebido del correo electrónico como motivo de despido laboral* (“Evidence regarding the incorrect use of e-mail as a motive for dismissal”). Alicia Visitación Pérez Carro. Substitute Clerk, Labour Tribunal, number 12 in Barcelona.

6. *La prueba de la causa económica en el despido objetivo (art. 52 ET)* (“The evidence of economic causes in dismissals”). Olga Andreu Rico. Senior Officer in the Justice Administration Management Body.

WEDNESDAY, 21ST JULY. PARALLEL ROUNDTABLES, FROM 11.30 AM TO 1.30 PM

ROUNDTABLE 14. EVIDENCE OF PROFESSIONAL LIABILITY

GENERAL PRESENTATIONS:

1. *La dificultad probatoria de la culpa profesional de los intermediarios financieros: tratamiento judicial y especial análisis ante la crisis financiera actual* (“The difficulty in determining professional liability among financial intermediaries: Judicial treatment and special analysis given the current financial crisis”). Dr. Marisa Gracia Vidal. Deusto.

2. *La prueba del error profesional del abogado y el procurador* (“Evidence of professional errors among attorneys and solicitors”). Joaquim Martí Martí. Attorney. Institute of Forensic Evidence and Probative Law. ESADE.

3. *La prueba pericial en las demandas dirigidas contra arquitectos superiores por patologías constructivas* (“Evidence from technical experts in lawsuits against architects for construction pathologies”). David Jurado Beltrán. Attorney.

4. *El valor de los ensayos, y el análisis físico y mecánico en las pruebas periciales* (“The value of tests and physical and mechanical analyses in technical expert evidence”). Ignacio Marcos Rodríguez. Industrial Engineer. Universidad del País Vasco/Euskal Herriko Unibertsitatea (UPV/EHU). Juan Ignacio Marcos González. Attorney. Jesus Díez Hernández. Industrial Engineer.

5. *La declaración tributaria como medio de prueba* (“The tax return as evidence”). Jesús Sánchez García. Attorney.

ROUNDTABLE 15. EVIDENCE OF CORPORATE LIABILITY

GENERAL PRESENTATIONS:

1. *La prueba del defecto cuando el producto defectuoso desaparece* (“Evidence of defects when the defective product disappears”). Dr. Iñigo A. Navarro Mendizabal. ICADE.

2. *El régimen de la prueba en la Ley 22/1994, de 6 de julio, de responsabilidad civil por daños causados por productos defectuosos* (“Regulations regarding evidence according to Law 22/1994, dated 6th July, on civil liability for damages caused by defective products”). Dr. Inmaculada Herbosa Martínez. Deusto.

3. *La prueba de la responsabilidad empresarial por riesgos ambientales* (“Evidence of corporate liability for environmental risks”). Dr. Pilar Dopazo Fraguío. Adjunct Professor in the Department of Common Disciplines. Universidad Pontificia Comillas Faculty of Law. ICADE.

4. *La prueba pericial en las medidas cautelares del proceso de propiedad industrial*. (“Technical experts' evidence for precautionary measures in industrial property proceedings”). Dr. Vicente Pérez Daudí. Associate Professor of Procedural Law. Universidad de Barcelona.

5. *La prueba de la insolvencia en el procedimiento concursal* (“Evidence of insolvency in bankruptcy proceedings”). Dr. Enrique Gadea Soler. Deusto.

ROUNDTABLE 16. EVIDENCE AND PENAL PROCEEDINGS II

GENERAL PRESENTATIONS:

1. *Análisis jurisprudencial de los efectos de la prueba ilícitamente obtenida y la teoría de la conexión de la antijuricidad en el proceso penal* (“A jurisprudential analysis of the effects of illegally obtained evidence and the theory of the ‘contrary to law’ connection in penal proceedings”). Dr. Sara Díez Riaza. ICADE.

2. *La identificación del imputado mediante la comparación de perfiles de ADN* (“Identifying the accused by means of comparing DNA profiles”). Dr. Manuel Richard González. Associate Professor of Procedural Law. Institute of Forensic Evidence and Probative Law. ESADE.

3. *La prueba de perfiles de ADN en el marco del proceso penal: luces y sombras* (“Evidence from DNA profiles in the penal proceedings framework: Pros and cons”). Dr. Arantza Libano Beristain. Professor of Procedural Law. UAB.

4. *Las garantías jurídicas de la toma de muestras biológicas para la identificación del imputado mediante el ADN* (“Legal guarantees when taking biological samples to identify the accused by means of DNA”). Dr. José Antonio del Olmo del Olmo. Universidad Alcalá de Henares.

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