

**Course Syllabus**  
Spring 2023

**Course:** Evidence (Law 222-001), 3 credits

**Class Meeting:** Tuesdays & Thursdays, 6:35-8:00 p.m.

**Professor:** John McNichols  
Office Hours: by appointment  
Email: [jmcnich2@gmu.edu](mailto:jmcnich2@gmu.edu)  
Phone: (202) 434-5043

**Course Materials:** There are two required books for this course:

Title: Evidence, Cases and Materials  
Edition: 13th  
Author: Roger C. Park & Richard D. Friedman  
ISBN: 9781634603423

Title: Federal Rules of Evidence  
Edition: 2022-23  
Author: Daniel J. Capra  
ISBN: 9781685611804

**Course Description and Learning Outcomes:**

In this course, we will cover the common-law and statutory rules of evidence applicable in civil and criminal trials in the United States, focusing on the Federal Rules of Evidence. We will study practical matters such as burdens of proof, objections, motions *in limine*, and preservation of the record, as well as more specific doctrinal issues such as relevance and character evidence, hearsay and its exceptions, witness competency, and expert testimony.

The course is intended to be the first step toward a career in trial practice. During the course, students will gain experience thinking on their feet and navigating the various problems that emerge as evidence is taken in real time. By the end of the semester, students will be able to explain the origins and rationale for the rules of evidence and recognize the real-world situations that trigger the application of particular concepts. Most importantly, students will be able to apply the rules to the type of fact patterns that commonly emerge in civil and criminal trials in the same manner that experienced trial lawyers do.

**Attendance, Participation, and Classroom Behavior:** This is a mandatory attendance class. Evidence is an inherently interactive subject, and hence students must be prepared to participate actively in every class session. Use of laptops for note-taking is permitted but should not interfere with participation in classroom discussion.



**Week Four**

Tues. 2/7

Hearsay: Out-of-Court Statements Offered for the Truth of the Matter Asserted

Park & Friedman 193-238

Fed. R. Evid. 801, 802, 805

Thurs. 2/9

Hearsay: Confrontation Clause

Park & Friedman 238-248, 293-312

**Week Five**

Tues. 2/14

Hearsay: Admissions, Declarations Against Interest

Park & Friedman 249-280, 353-366

Fed. R. Evid. 801(d)(2), 804

Thurs. 2/16

Hearsay: Spontaneous Statements, State of Mind

Park & Friedman 280-292, 312-337

Fed. R. Evid. 803, 803(3)

**Week Six**

Tues. 2/21

Hearsay: Former Testimony, Issue Preclusion, Prior Judgments,

Park & Friedman 342-352, 463-466

Fed. R. Evid. 801(d)(1), 803(5), 803(22), 804(b)(1)

Thurs. 2/23

Hearsay: Prior Identification, Past Recollection Recorded, Medical Diagnosis

Park & Friedman 385-399, 337-342

Fed. R. Evid. 803(4)

**Week Seven**

Tues. 2/28

Hearsay: Business and Public Records

Park & Friedman 399-452

Fed. R. Evid. 803(6)-(8)

Thurs. 3/2

Hearsay: Dying Declarations, Forfeiture, Residual Exception

Park & Friedman 367-385, 468-484

Fed. R. Evid. 804(b)(2), 804(b)(6), 807

**Week Eight**

Tues. 3/7

Witness Competency

Park & Friedman 699-730

Fed. R. Evid. 601-606

Thurs. 3/9

Impeachment & Rehabilitation: Prior Statements, Contradiction

Park & Friedman 485-500, 541-554

Fed. R. Evid. 607, 612, 613, 801(d)(1)(B), 806

**----- SPRING BREAK -----**

**Week Nine**

Tues. 3/21

Impeachment & Rehabilitation: Character, Convictions, Bias  
Park & Friedman 501-541 (+ re-read Michelson at 113)  
Fed. R. Evid. 608-610, 806

Thurs. 3/23

Writings: Best Evidence Rule  
Park & Friedman 669-679  
Fed. R. Evid. 1001-1008

**Week Ten**

Tues. 3/28

Authentication, Judicial Notice  
Park & Friedman 679-697, 731-744  
Fed. R. Evid. 201, 901-903

Thurs. 3/30

The Burden of Proof and Presumptions  
Park & Friedman 749-780  
Fed. R. Evid. 301, 302

**Week Eleven**

Tues. 4/4

Privilege: Attorney/Client  
Park & Friedman 563-593, 635-640  
Fed. R. Evid. 501, 502, plus unenacted rules

Thurs. 4/6

Privilege: Medical/Marital/Clerical/Etc.  
Park & Friedman 593-635

**Week Twelve**

Tues. 4/11

Privilege: Governmental  
Park & Friedman 641-668

Thurs. 4/13

Opinion Testimony: Expert  
Park & Friedman 781-839  
Fed. R. Evid. 701, 703-06

**Week Thirteen**

Tues. 4/18

Opinion Testimony: Scientific, Demonstrative Evidence  
Fed. R. Evid. 702  
Park & Friedman 840-940

Thurs. 4/20

Review