

**Course Syllabus**  
Spring 2024

**Course:** Evidence (Law 222-002), 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)

**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: 2023-24  
Author: Daniel J. Capra  
ISBN: 9781647084936

**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.

**Grading:** There will be one comprehensive final exam at the end of the semester. The exam will be open book and consist of short-answer questions based on hypothetical scenarios similar to those covered in class. All student grades will be based on the exam, subject to a potential one-half grade adjustment for in-class performance.

**Class Schedule and Reading Assignments:** To be prepared for each class session, students should read the assigned pages from the Park & Friedman textbook as well as the assigned Rules from the Federal Rules of Evidence. Please note that assigned reading for a particular Rule includes the full Advisory Committee's Notes for that Rule.

**Week One**

Tues. 1/16 Introduction: The Purpose of Evidentiary Rules and the Process of Admitting Evidence at Trial  
Park & Friedman 1-74  
Fed. R. Evid. 102-106, 611, 614 & 615

Thurs. 1/18 Relevance: Inference/Probative Value/Prejudice  
Park & Friedman 75-108  
Fed. R. Evid. 401-403

**Week Two**

Tues. 1/23 Relevance: Character Evidence and the Propensity Rule  
Park & Friedman 109-123  
Fed. R. Evid. 404(a), 405, 608

Thurs. 1/25 Relevance: Character Evidence and Bad Acts  
Park & Friedman 124-143  
Fed. R. Evid. 404(b)

**Week Three**

Tues. 1/30 Relevance: Habit, Rape Shield, and Similar Happenings  
Park & Friedman 144-178  
Fed. R. Evid. 406, 412-415

Thurs. 2/1 Relevance: Subsequent Remedial Measures, Offers of Compromise, Pleas.  
Park & Friedman 178-192  
Fed. R. Evid. 407-411

**Week Four**

Tues. 2/6

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

Park & Friedman 193-238

Fed. R. Evid. 801, 802, 805

Thurs. 2/8

Hearsay: Confrontation Clause

Park & Friedman 238-248, 293-312

**Week Five**

Tues. 2/13

Hearsay: Admissions, Declarations Against Interest

Park & Friedman 249-280, 353-366

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

Thurs. 2/15

Hearsay: Spontaneous Statements, State of Mind

Park & Friedman 280-292, 312-337

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

**Week Six**

Tues. 2/20

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. 2/22

Hearsay: Prior Identification, Past Recollection Recorded, Medical Diagnosis

Park & Friedman 385-399, 337-342

Fed. R. Evid. 803(4)

**Week Seven**

Tues. 2/27

Hearsay: Business and Public Records

Park & Friedman 399-452

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

Thurs. 2/29

Hearsay: Dying Declarations, Forfeiture, Residual Exception

Park & Friedman 367-385, 468-484

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

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

**Week Eight**

Tues. 3/12

Witness Competency  
Park & Friedman 699-730  
Fed. R. Evid. 601-606

Thurs. 3/14

Impeachment & Rehabilitation: Prior Statements, Contradiction  
Park & Friedman 485-500, 541-554  
Fed. R. Evid. 607, 612, 613, 801(d)(1)(B), 806

**Week Nine**

Tues. 3/19

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

Thurs. 3/21

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

**Week Ten**

Tues. 3/26

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

Thurs. 3/28

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

**Week Eleven**

Tues. 4/2

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

Thurs. 4/4

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

**Week Twelve**

Tues. 4/9

Privilege: Governmental  
Park & Friedman 641-668

Thurs. 4/11

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

**Week Thirteen**

Tues. 4/16

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

Thurs. 4/18

Review