

LAW 222 – Evidence – Spring 2024 (Session 1)
Asynchronous course (2 credit hours)

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COURSE DESCRIPTION:

This is a two-credit hour course covering the Federal Rules of Evidence, addressing the laws that govern the sufficiency, admission, and exclusion of evidence in criminal and civil court proceedings. The subject matter will cover the functions of the judge and jury, qualification and examination of witnesses, proof of writing, judicial notice, competence and credibility of witnesses, opinion evidence, hearsay, burdens of proof, presumptions and inferences, real evidence, and demonstrative, experimental, and scientific evidence. Additional specific topics include relevance of evidence and arguments against admission, privileges, expert witness testimony, and understanding the policy rationales underlying the Federal Rules of Evidence.

STRUCTURE OF COURSE AND USE OF MATERIALS:

This is an asynchronous study, divided into 7 learning modules followed by a final exam. The course takes place over 7 weeks, building upon the learning outcomes from previously completed coursework within the program. This course utilizes two required texts, listed below. The first, *Trial Evidence*, 7th ed., includes the full text of the Federal Rules of Evidence in the back of the coursebook, beginning at page 445. Rather than listing the page number for reference when assigning the rules for reading, the rule number itself will be noted with the abbreviation FRE XXX. You will see many of the rules assigned as readings in multiple modules. This is not an error and is due to the fact that they are very interrelated and the analysis of many of the rules requires consideration of the interplay between other rules of evidence. In addition, the outlined assignments for each module will reference the readings from this selection as the “Text Chapters.”

The second text is a workbook which includes two full case files, one criminal and one civil. The purpose of the case files is to provide students with the opportunity to read through court filings related to both criminal and civil cases, and observe elements of evidence (such as medical records, photographs, deposition transcripts) as they relate to a court proceeding. Assigned readings from this selected text will be referenced as “Workbook pgs.”

During each module, students will complete selected readings from each text and watch video lectures. As indicated in the outline below, the Modules will also include one to two discussion board questions that students will participate in and either IRAC essay questions or multiple-choice questions to be submitted. (For further details on each type of

assignment, see below: *Discussion Board Details section and **IRAC Essays and Multiple-Choice Questions.)

There will be two OPTIONAL synchronous meetings throughout the course. They will be held via Zoom (link available on the left-hand side vertical menu in the Blackboard Evidence course). Attending these meetings is not mandatory. More information about these optional meetings, including dates and specific times offered, will be posted in the course Announcements. These meetings provide students the opportunity for group engagement and real-time interactive review and application of the course materials discussed in greater detail below.

TEXTBOOK AND COURSE MATERIALS:

- (1) Mauet, Wolfson, Trial Evidence, 7th ed. (Aspen)
ISBN-13: 978-1543810677
ISBN-10: 1543810675
- (2) Burns, Lubet, Moberly, Evidence in Context: A Trial Evidence Workbook, 5th ed. (Nita)
ISBN-13: 978-1601565853
ISBN-10: 1601565852

LEARNING OBJECTIVES:

Each module of study in this course builds upon the previous module. By the end of the final module, students will be able to:

1. List the elements of evidentiary rules.
2. Explain the policy rationales underlying the rules.
3. Contrast the role of the judge and jury in resolving evidentiary issues at trial.
4. Identify which evidentiary rules apply to a specific piece of evidence.
5. Construct arguments in favor of and against admissibility of a specific piece of evidence.
6. Determine the admissibility of evidence from the perspective of a judge.
7. Assess how the rules of evidence operate in a real courtroom setting.

GRADING:

The course is set up on a simple to follow 100-point grading system. Participation in the weekly discussion postings and submission of practice IRAC- formatted-essays and multiple-choice questions will be graded on a **pass/ fail basis**. The completion of these assignments in each module is worth a total of 15% of your overall final grade, broken down as follows: Weekly discussion board posts are worth 1 point per assignment (1%), the completion of 5 multiple choice questions in the assigned modules is also worth 1 point per assignment (1%), and IRAC essay submissions are worth 2 points (2%) each. Partial completion of an assignment will result in a “0%” or “fail” for that assignment. A midterm essay examination during module 5 is worth 15% of your overall grade (15

points), and the final multiple-choice exam is 70% (70 points) of your final overall grade.

MODULE OUTLINE AND ASSIGNMENTS:

WEEK/ MODULE	TOPICS and Lectures	READINGS	ASSIGNMENTS
Week 1/ Module 1	1. Introduction to Evidence Law 2. Role and Powers of Trial Judge 3. Three R's of Admissibility & Burdens of Proof <ul style="list-style-type: none"> • Welcome Video • Lecture Video 1.1 • Lecture Video 1.2 • Lecture Video 1.3 	Text Chapters I & II, V (only pages 75-85 of Chapter V), XI (only pages 349-350, section 1. Burdens of Proof) FRE 101-105; 401-403; 407-412; 611, 614 IRAC Essay Review of format/ sample essay	Discussion Board: Student Introductions (1 Point) 5 Multiple Choice Questions (1 Point)
Week 2/ Module 2	1. Examination of Witnesses 2. Introduction of Character Traits & Crimes and Other Acts Evidence <ul style="list-style-type: none"> • Lecture Video 2.1 • Lecture Video 2.2 • Lecture Video 2.3 	Text Chapters IV & V FRE 406; 412-415; 601-607; 611-615; 701-705; 803 Workbook pgs. 3-89	***Synchronous Meeting- Date/ Time TBD Discussion Board: Judicial Discretion (1 Point) IRAC Essay 1: Considering the basics of the three R's (2 Points) IRAC Essay 2: Admissibility of Character Evidence (2 Points)
Week 3/ Module 3	1. Hearsay and Non-Hearsay <ul style="list-style-type: none"> • Lecture Video 3.1 	Text Chapters VI & VII	Discussion Board: Review of Workbook Criminal Case (1 Point)

	<ul style="list-style-type: none"> Lecture Video 3.2 	<p>FRE 801-802</p> <p>Workbook pgs. 93-183</p>	<p>IRAC Essay: Identifying Issues related to Evidence Law (2 Points)</p>
Week 4/ Module 4	<p>1. Hearsay Exceptions</p> <ul style="list-style-type: none"> Lecture Video 4.1 Lecture Video 4.2 Lecture Video 4.3 	<p>Text Chapter VII</p> <p>FRE 802-807</p> <p>Workbook pgs. 185-249</p>	<p>Discussion Board: State v. Mitchell (1 Point)</p> <p>5 Multiple Choice Questions (1 Point)</p>
Week 5/ Module 5	<p>1. Expert Witnesses</p> <p>2. Evidentiary Exhibits</p> <ul style="list-style-type: none"> Lecture Video 5.1 	<p>Text Chapters IX & X</p> <p>FRE 404-407; 411-412; 702-705; 1001-1003</p>	<p>MIDTERM- 1 Essay Problem (15 Points)</p>
Week 6/ Module 6	<p>1. Cross Examination</p> <p>2. Impeachment of Witnesses</p> <ul style="list-style-type: none"> Lecture Video 6.1 	<p>Text Chapters XII</p> <p>6.1 Chart</p> <p>FRE 104; 608-609; 613</p>	<p>Discussion Board: Admissibility of Electronic Evidence (1 Point)</p> <p>IRAC Essay: Cross Examination (2 Points)</p>
Week 7/ Module 7	<p>1. Privileges and the Exclusion of Relevant Evidence</p> <p>2. Judicial Notice and Objections</p> <p>3. Constitutional Issues</p> <ul style="list-style-type: none"> Lecture Video 7.1 	<p>Text Chapters VIII & XI</p> <p>Review Ch. 2 § 2.4</p> <p>FRE 201; 403-415; 501-502</p> <p>Evidence Analysis Checklist</p> <p>Chart of Objections</p>	<p>FINAL EXAM</p> <p>25 Question Multiple Choice Exam (70 Points)</p>

***Discussion Board Details**

The discussion questions may be found by clicking on the Discussion Board link on the left-hand side vertical menu and are also linked to the appropriate module. The discussion questions give you an opportunity to apply the material covered by the readings and the video lecture, which you should watch before completing the related discussion question. You are required to post an initial analysis of each discussion question without being able to view any of the analyses posted by other students. You must post your initial analysis of each discussion question no later than 11:59 p.m. EDT on the Friday of the week during which the module is being covered.

After posting your initial analysis, you will be able to see all the other students' responses on that discussion board thread and you must post a reply to one other student by 11:59 p.m. EDT on the Sunday that closes out that week's instruction. You must post one reply for each discussion question and your replies must be substantive in nature, either pointing out a flaw in another student's analysis or explaining why you think another student's analysis is correct. (Although it should go without saying, for the sake of thorough explanation, this criteria does not apply to any discussion board which is not graded).

As indicated above, the pass/fail assessment for the assignments in this course are dependent upon full completion of the assignment. Accordingly, to receive credit for the discussion board assignment, you must *timely* post your initial analysis and reply. You will receive full credit for participating in a discussion board if I conclude that you have made a good-faith effort in your initial analysis and in your response. Posts made after the deadline will receive no credit although I reserve the right to grant an extension of time for emergency circumstances entirely beyond a student's control. A student seeking an extension must inform me of the emergency before the deadline if possible.

****IRAC Essays and Multiple-Choice Questions**

These assignments are not arbitrarily created for the mere purpose of assessing your understanding and application of the materials covered. Although they serve that purpose as well, they are designed to provide students with initial practice on analyzing the Federal Rules of Evidence in bar-exam styled questions.

Evidence is a subject heavily tested throughout the bar exam and is among the subjects which may be tested in each area of the examination, i.e., the MBE (Multi-State Bar Examination); MEE (Multi-State Essay Examination); and MPT (Multi-State Performance Test). The multiple-choice questions completed within the module assignment sections, as well as in the final examination, are modeled after previous bar examination MBE questions. The IRAC essays assigned within the noted modules and the mid-term examination are modeled after previous MEE questions.

As further discussed below, the Workbook readings, related discussion questions, multiple choice questions and essays are presented to introduce students to the necessary analytical skills

utilized in completing the MPT portion of the bar exam.

Instructor-Student Communication: I will respond to your emails within 48 hours. If I will be away from email for more than one day, I will post an announcement in the Blackboard course folder. Before sending an email, please check the following (available on your Blackboard course menu) unless the email is of a personal nature:

1. Syllabus
2. Ask the Professor
3. Course Announcements

Feel free to respond to other students in the Ask the Professor forum if you know the answer.

University Policies and Resources

- a. Academic Honesty: You are expected to be familiar with and abide by the University's Honor Code. The Code can be found [here](#). It is your responsibility to see me if you have questions about these policies. George Mason University has an honor code that states the following: *To promote a stronger sense of mutual responsibility, respect, trust, and fairness among all members of the George Mason University community and with the desire for greater academic and personal achievement, we, the student members of the University Community have set forth this:*
- b. Students must follow the university policy for [Responsible Use of Computing](#).
- c. Student services: The University provides range of services to help you succeed academically and you should make use of these if you think they could benefit you. I also invite you to speak to me (the earlier the better). Here are a few helpful links.
 - Keep Learning, Learning Services (learningservices.gmu.edu/keeplearning/)
 - University Libraries (library.gmu.edu)
 - Writing Center (writingcenter.gmu.edu)
 - Counseling and Psychological Services (caps.gmu.edu)
- d. Students are responsible for the content of university communications sent to their George Mason University email account and are required to activate their account and check it regularly. All communication from the university, college, school, and program will be sent to students solely through their Mason email account in accordance with [Family Educational Rights and Privacy Act \(FERPA\)](#). For more on student privacy and student rights under FERPA, reference: <https://registrar.gmu.edu/ferpa/>.
- e. [The George Mason University Counseling and Psychological Services \(CAPS\)](#) staff consists of professional counseling and clinical psychologists, social workers, and counselors who offer a wide range of services (e.g., individual and group counseling, workshops and outreach programs) to enhance students' personal experience and academic performance. Counseling Center: Student Union I, Room 364, 703-993-2380.

- f. Students with disabilities who seek accommodations in a course must be registered with the [George Mason University Office of Disability Services \(ODS\)](#) and inform their instructor, in writing, at the beginning of the semester. All academic accommodations must be arranged through that office. Please note that accommodations MUST BE MADE BEFORE assignments or exams are due. Student grades cannot be adjusted after the fact. In requesting accommodations from Disability Services, students will need to provide appropriate documentation (ds.gmu.edu/forms/).
- g. Students must follow the university policy stating that all sound emitting devices shall be turned off during class unless otherwise authorized by the instructor.
- h. [The George Mason University Writing Center](#) staff provides a variety of resources and services (e.g., tutoring, workshops, writing guides, handbooks) intended to support students as they work to construct and share knowledge through writing. University Writing Center: Robinson Hall Room A114, 703-993-1200. The writing center includes assistance for students for whom English is a second language.
- i. **Diversity:** George Mason University promotes a living and learning environment for outstanding growth and productivity among its students, faculty and staff. Through its curriculum, programs, policies, procedures, services and resources, Mason strives to maintain a quality environment for work, study and personal growth.
- j. **Holiday Observation:** As it pertains to religious holiday observation, within the first two weeks of the semester, students are responsible for letting their instructor know the dates of major religious holidays when their absence or unavailability is anticipated due to religious observances. The Mason University Life religious holiday calendar can be found at: <https://ulife.gmu.edu/religious-holiday-calendar/>. For important academic calendar dates, see: <https://studentaccounts.gmu.edu/calendars/>

Blackboard Login Instructions:

Access to [MyMason](#) and GMU email are required to participate successfully in this course. Please make sure to update your computer and prepare yourself to begin using the online format BEFORE the first day of class. Check [the IT Support Center](#) website. Navigate to [the Student Support page](#) for help and information about Blackboard. In the menu bar to the left you will find all the tools you need to become familiar with for this course. Take time to learn each. Make sure you run a system check a few days before class. Become familiar with the attributes of Blackboard and online learning.

Technology Requirements

Hardware: You will need access to a Windows or Macintosh computer with at least 2 GB of RAM and access to a fast and reliable broadband internet connection (e.g., cable, DSL). A larger screen is recommended for better visibility of course material. You will need speakers or headphones to hear recorded content and a headset with a microphone is recommended for the best experience. For the amount of Hard Disk Space required taking a distance education

course, consider and allow for:

1. the storage amount needed to install any additional software and
2. space to store work that you will do for the course.

If you consider the purchase of a new computer, please go to [Patriot Tech](#) to see recommendations.

Software: Many courses use Blackboard as the learning management system. You will need a browser and operating system that are listed compatible or certified with the Blackboard version available on the [myMason Portal](#). See [supported browsers and operating systems](#). Log in to [myMason](#) to access your registered courses. Some courses may use other learning management systems. Check the syllabus or contact the instructor for details. Online courses typically use [Acrobat Reader](#), [Flash](#), [Java](#), and [Windows Media Player](#), [QuickTime](#) and/or [Real Media Player](#). Your computer should be capable of running current versions of those applications. Also, make sure your computer is protected from viruses by downloading the latest version of Symantec Endpoint Protection/Anti-Virus software for free [here](#).

Students owning Macs or Linux should be aware that some courses may use software that only runs on Windows. You can set up a Mac computer with Boot Camp or virtualization software so Windows will also run on it. Watch [this video](#) about using Windows on a Mac. Computers running Linux can also be configured with virtualization software or configured to dual boot with Windows.

Note: If you are using an employer-provided computer or corporate office for class attendance, please verify with your systems administrators that you will be able to install the necessary applications and that system or corporate firewalls do not block access to any sites or media types.