

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL
Evidence, Fall 2021
Adjunct Professor Charles C. Lemley

Contact Information:

(202) 320-8439

clemley@wiley.law

Class Information:

Monday and Wednesday
6:05 p.m. – 7:30 p.m.

LEARNING OUTCOMES: By the end of the course students should be able to:

- Identify and analyze the kinds of evidentiary challenges that litigators face and determine the most appropriate course of action in accordance with applicable authorities
- Understand the structure of the applicable rules of evidence and other authorities such that they can locate the necessary authority when evidentiary issues arise
- Understand the principles and policies that inform that law of evidence in a way that permits them to analyze evidentiary issues regardless whether specific rules apply

GRADING: Grades will be based on a comprehensive final examination. Class participation does not influence grades, but the study of evidence lends itself to discussion and interaction, and I will encourage class participation whenever possible. I don't plan to call on people without warning, but I may implement an "on-call" system if necessary to stimulate discussion.

Text:

Evidence, 13th ed. 2019, Park & Friedman (Foundation Press)

Assignments (for the first class meeting, just read the materials quickly and have access to the rules when you come to class – we'll discuss the reading assignments further in class):

Monday, August 23

Introduction- General Rules

Casebook: 1-74

Rules: 101-106, 611, 614, 615, 1101

Wednesday, August 25

Introduction- General Rules

Casebook: 1-74

Rules: 101-106, 611, 614, 615, 1101

Monday, August 30

Introduction continued

Same as above

Wednesday, September 1

Hearsay - General

Casebook: 193-219
Rules: 801, 802, 805

Monday, September 6

No Class (Labor Day)

Wednesday, September 8

Hearsay – Confrontation

Casebook: 219-248
Rules: 803

Monday, September 13

Hearsay – Admissions, etc.

Casebook: 2249-280, 353-367
Rules: 801(d)(2), 804

Wednesday, September 15

Hearsay – Spontaneous/Contemporaneous
Statements

Casebook: 280-312
Rules: 803

Monday, September 20

Hearsay – State of Mind, Medical
Diagnosis

Casebook: 312-342
Rules: 803(3), 803(4)

Wednesday, September 22

Hearsay – Prior Testimony, Prior
ID, Past Recollection Recorded

Casebook: 342-353, 385-399
Rules: 801(d)(1), 803(5), 804(b)(1)

Monday, September 27

Hearsa – Business/Public Records

Casebook: 399-463
Rules: 803(6) – (18)

Wednesday, September 29

Hearsay – Dying Declarations, Forfeiture,
Residual Exception, Miscellaneous

Casebook: 367-385, 463-484
Rules: 804(b)(2), 804(b)(6), 807

Monday, October 4

Character - General

Casebook: 109-132
Rules: 404(a), 405

Wednesday, October 6

Character – Bad Acts

Casebook: 132-151
Rules: 404(b)

**Tuesday, October 12 (Monday, October 11 s
Fall Break)**

Character - Habit

Casebook: 151-172
Rules: 406, 412-415

Wednesday, October 13

Character – Subsequent Measures, Pleas,
etc.

Casebook: 172-192
Rules: 407-411

Monday, October 18

Witness Competency

Casebook: 699-729
Rules: 601-606

Wednesday, October 20

Impeachment - Methods

Casebook: 485-534
Rules: 607-610

Monday, October 25

Impeachment - Rehabilitation

Casebook: 534-562
Rules: 611-613, 806

Wednesday, October 27

Writings – Best Evidence Rule

Casebook: 669-679
Rules: 901-903

Monday, November 1

Authentication

Casebook: 679-687, 731-744
Rules: 1001-1008, 201

Wednesday, November 3

Burden of Proof and Presumptions

Casebook: 749-780
Rules: 301, 302

Monday, November 8

Attorney/Client Privilege

Casebook: 563-593
Rules: 501, 502

Wednesday, November 10

Privilege – Inadvertent Waiver, etc.

Casebook: 635-640
Rules: 407-411

Monday, November 15

Expert Testimony

Casebook: 781-840
Rules: 701-706

Wednesday, November 17

Expert Testimony (cont.)

Casebook: 840-873

Monday, November 22

Makeup/Review

Final Exam – December 7, 2021 at 6 pm