

EVIDENCE

JURI 4250 | Fall 2022

Professor John Meixner | john.meixner@uga.edu

Mondays & Wednesdays | 9:00 AM – 10:15 AM | Room F

COURSE DESCRIPTION AND OBJECTIVES

Welcome to Evidence! Evidentiary rules dictate when and how information is introduced at trial. For trial lawyers, of course, mastery of the rules of evidence is essential. But, as you will learn, even for those of you who will never try a case, understanding the rules of evidence is important. Every lawyer's work—whether during pretrial litigation or before litigation at all—is shaped by what *could* be proven at trial, as dictated by the rules of evidence.

This course will focus primarily on the Federal Rules of Evidence, which were adopted in 1975 and which form the basis for the evidence codes that have been adopted in most states (including Georgia). While we will sometimes discuss differences between the Federal Rules and the Georgia Evidence Code, our focus will be on the Federal Rules.

At the end of this class, you should (1) have a working knowledge of the Federal Rules of Evidence; (2) be able to apply the rules to a given item of evidence and argue persuasively for or against its admissibility; and (3) understand the various policy concerns, psychological assumptions, history, and practical courtroom pressures on the development of evidentiary rules.

COURSE MATERIALS

The majority of class readings will come from *Merritt & Simmons, Learning Evidence: From the Federal Rules to the Courtroom* (Fifth Edition, 2022). You will find that the book is different from most of the casebooks you used in your first-year classes—rather than presenting the rules through cases, the book outlines the rules directly, and then walks through a series of short, case-based examples.

In addition to the physical book, the newest edition provides access to some online videos, quizzes, and other study materials. Access to those is not required, but you may find them helpful, so keep that in mind when deciding which edition of the book to use. Also be aware that if you choose to use an older edition, your book may not always correspond to the assigned readings.

The book contains an appendix with the Federal Rules of Evidence, so you don't need to purchase a separate rules pamphlet. However, you might sometimes find it

handy to have access to the rules without flipping to the end of the book. You can access all of the rules online for free [here](#).

CONTACT INFORMATION AND OFFICE HOURS

My email address is john.meixner@uga.edu, and I encourage you to use it regularly, for questions both large and small. I will hold office hours immediately after class, on Mondays and Wednesdays from 10:15–11:15. If you can't make it to those times, feel free to schedule a meeting with me using the calendar [here](#). Office hours will generally be in my office (205 Hirsch Hall). When the weather is nice, I may occasionally hold office hours in the courtyard outside; I will notify the class when this is the case.

CLASS PARTICIPATION AND INTERACTION

General format. To learn evidence, you must practice. Thus, much of our class will be interactive and focused on working through various evidentiary puzzles together. We'll do this in a few different ways. Sometimes, I may call on you to discuss the rules and their application, much like in a 1L class. Other times, I may assign you a role as a plaintiff/prosecutor or defense attorney to argue for or against the admissibility of a particular piece of evidence. I will also sometimes ask you to conduct a mock direct examination (with me as the witness) to demonstrate evidentiary principles.

Passing. If you know before a class that you will be unprepared to respond to questions, you may send me an email at least 30 minutes before class, requesting not to be called on that day. There's no hard cap on the number of passes you may take, but excessive passing may affect your participation grade.

Polling. We will be using the PollEverywhere system during class so that everyone can answer evidence problems and we can review the class's answers together. You will be able to access this system via either a laptop or phone/tablet. I will provide instructions on how to do that via the eLC page. Your polling responses will not be part of your grade, but I strongly encourage you to give it your best effort.

Respecting each other. We will sometimes discuss sensitive and difficult issues like racism, sexual assault, sexism, violence, and trauma. I'll do my best to flag especially difficult materials ahead of time. If you have particular triggers you'd like to discuss with me, please raise them with me individually (this will be kept confidential). During class discussions, I strive to make the class a place of respectful engagement. You may find you disagree with another student on a particular topic. Sometimes, I may assign you to argue a position that you might disagree with. I ask that you presume good faith in each others' arguments and treat each other with unwavering respect.

Pronouns and addressing each other. I use he/him pronouns and happily respond to “Professor Meixner” or “Dr. Meixner.” (For the reason why I prefer you don’t use my first name, see [this thoughtful piece](#)). At the start of the semester, I will ask you to email me some basic information, including your pronoun preferences and the correct pronunciation of your name. In class, I will expect us all to make a good faith effort to respect each other’s publicly stated preferences, while acknowledging that it is not always easy to shift to unfamiliar grammatical norms.

Technology. You may use laptops or other devices in class for class-related purposes only. Class recording by students is not permitted without express authorization.

ATTENDANCE

Attendance is mandatory, and critical to your learning. Evidence is different from many other subjects in law school: when an evidentiary issue comes up at trial, you won’t have time to consult a hornbook or speak with another lawyer about it. Instead, you must know the rules cold. Because of that, we will focus our class time on repeated practice of applying the rules. If you aren’t in class to participate in that practice, you will have a hard time learning evidence.

The class will follow [the Law School’s attendance policy](#). I will organize an online attendance sheet at the beginning of the semester and expect you to fill it out regularly. You are permitted four absences during the course of the semester. If at any time you think you will need to miss more than four classes, please notify me in advance by email, explain the situation, and request that the absence be excused. I will handle such requests on a case-by-case basis, doing my best to balance your wellbeing with reasonable academic expectations.

CLASS WEBPAGE

I will use [our course’s eLearning Commons \(eLC\) page](#) to communicate information about upcoming classes, as well as distribute course materials. I will generally post PowerPoint slides from each day’s class to the eLC page later that afternoon. Please make sure you check the page regularly, and check your eLC notifications to ensure that you are receiving updates for the course.

GRADING & FINAL EXAM

Your grade will be based on three things: a final examination (80%); two quizzes (10%); and in-class participation (10%). All grading will be consistent with the [policies outlined in the student handbook](#).

The mid-term quizzes will be held in class, and will be scheduled depending on our progress throughout the semester. I have provided *tentative* dates for the quizzes in the schedule below, and will announce finalized quiz dates in advance so you have time to study. The quizzes will be timed, open-book, and open-note, but you will not be permitted to access any internet resources.

The final exam is scheduled for November 29, at 9 AM. It will last three hours, and will include both multiple choice and essay questions. It will be open-book and open-note, but you will not be permitted to access any internet resources. You may not copy and paste pre-written material, whether written by you or someone else.

LAW SCHOOL HONOR CODE AND UGA'S ACADEMIC HONESTY POLICY

All work done in this course is subject to the [University of Georgia Law School Honor Code and Plagiarism Policy](#), and the University of Georgia Academic Honesty Policy, and the University of Georgia Non-Discrimination and Anti-Harassment Policy.

MENTAL HEALTH AND WELLNESS RESOURCES

It is totally normal to seek out and use mental health services and related resources. If you or someone you know needs assistance, you are encouraged to contact Dr. Casey Graham, the law school Director of Student Affairs at 706-542-5167 or casey.graham@uga.edu. You may also contact Student Care and Outreach in the Division of Student Affairs at 706-542-7774 or visit <https://sco.uga.edu>. They will help you navigate any difficult circumstances you may be facing by connecting you with the appropriate resources or services.

The law school has [a web page highlighting numerous health and wellness resources](#), including several resources specific to law students or the legal profession. UGA also has several resources for a student seeking mental health services. If you need help managing stress, anxiety, relationships, etc., please visit [BeWellUGA](#) for a list of free workshops, classes, mentoring, and health coaching led by licensed clinicians and health educators in the University Health Center. Additional resources can be accessed through the UGA App.

ADA ACCOMMODATIONS

Students requiring accommodations under the Americans with Disabilities Act should contact Dr. Casey Graham (casey.graham@uga.edu), the Law School Director of Student Affairs, who will ensure that the request is properly documented and that I receive instructions about your accommodation consistent with University policy.

SCHEDULE

Please keep in mind that all assignments are *tentative*, and may be changed by announcement in class or through the eLC system. Assignments are by chapter in your coursebook; you should complete all assigned readings before class and be prepared to discuss them. I have listed the tentative quiz dates, but they may change depending on our progress.

| | Date | Unit | Topic | Chapters |
|----|-----------|--|--|-----------|
| 1 | W Aug 17 | Introduction & Principles of Relevance | Intro; types of evidence; trial structure | 1–4 |
| 2 | M Aug 22 | | Objections; relevance | 5–6 |
| 3 | W Aug 24 | | Relevance; probativity vs. prejudice | 7–8 |
| 4 | M Aug 29 | | Specialized relevance rules: civil | 9–11, 13 |
| 5 | W Aug 31 | | Plea bargains; review & catch up | 12 |
| 6 | W Sep 7 | Witnesses & Impeachment | Witnesses | 14–15 |
| 7 | M Sep 12 | | Refreshing memory; basics of impeachment | 16–17 |
| 8 | W Sep 14 | | Prior statements; character for truthfulness | 18–19 |
| 9 | M Sep 19 | | Impeaching with convictions & reputation | 20–21 |
| 10 | W Sep 21 | Character | Character evidence generally; propensity | 25–27 |
| 11 | M Sep 26 | | Propensity in criminal cases | 28–29 |
| 12 | W Sep 28 | | Other acts; habit | 30–31 |
| 13 | M Oct 3 | | Rape shield laws; specialized rules | 32–33 |
| 14 | W Oct 5 | Authentication | Quiz 1; Authentication | 69 |
| 15 | M Oct 10 | Hearsay & Confrontation | Intro to hearsay | 35–37 |
| 16 | W Oct 12 | | Exemptions: prior statements | 38–39 |
| 17 | M Oct 17 | | Exemptions: opposing parties; conspiracies | 53–55 |
| 18 | W Oct 19 | | Double hearsay; review | 44 |
| 19 | M Oct 24 | | Exceptions: PSI; utterances; state of mind | 40–42 |
| 20 | W Oct 26 | | Exceptions: records | 43, 45–46 |
| 21 | M Oct 31 | | Exceptions: declarant unavailable | 48–52 |
| 22 | W Nov 2 | | Exceptions: misc; review | 47, 56 |
| 23 | M Nov 7 | | Confrontation Clause | 58 |
| 24 | W Nov 9 | | Review; Quiz 2 | None |
| 25 | M Nov 14 | Opinions | Lay opinions; basics of Rule 702 | 60–61 |
| 26 | W Nov 16 | | Methods of expert testimony | 62–64 |
| 27 | M Nov 21 | Privileges | Intro; attorney-client privilege | 66–67 |
| 28 | Tu Nov 22 | | Other privileges | 68 |
| F | Tu Nov 29 | | Final exam | - |