

## Evidence

Prof. Marie-Amélie George



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### Course Description

Welcome to Evidence! This course will teach you a set of rules that is vitally important to the practice of law. Why? The rules of evidence are central to every civil and criminal trial. They also often determine the victor in any given legal dispute pre-trial. Moreover, these rules have significance outside the courtroom. Transactional attorneys, in-house counsel, mediators, negotiators, and lobbyists consistently use evidence to analyze and advance their clients' claims--which means they need to know what evidence has legally significant value. In other words, the rules of evidence are vital to everything that lawyers do everyday.

Of course, becoming a great lawyer is not just about learning rules in a book. You must also know how to *use* the rules to advocate for your client. My goal is for you to be a great lawyer. As a result, we'll be working with the Federal Rules of Evidence to solve problems like the ones you will encounter in practice.

By the end of the semester, you should be able to:


- Identify the relevant Federal Rules of Evidence and apply them to new sets of facts.
- Advocate for the admission and exclusion of evidence based on the Federal Rules of Evidence.
- Effectively express your evidentiary arguments in written and oral advocacy.
- Explain the justifications for various rules of evidence.
- Analyze how evidentiary rules affect substantive outcomes.
- Be friends with the Federal Rules of Evidence!

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## Policies & Procedures

### *Readings*

The required texts for this course are:

- Jeffrey Bellin, *The Law of Evidence* (2021).
- Federal Civil Rules of Evidence (2024).
- Advisory Committee Notes (available [here](https://www.rulesofevidence.org/)  [\(https://www.rulesofevidence.org/\)](https://www.rulesofevidence.org/)).
- Other materials as assigned (posted on Canvas)

Unless otherwise indicated, page numbers in your syllabus refer to the Bellin casebook. FRE refers to the Federal Rules of Evidence. Any other materials I assign will be available on Canvas. You are responsible for reading all the assigned class material, whether or not we cover all of the material during class.


### *Class Discussions*

The rules of evidence are related to the basic fairness of the justice system. As a result, our conversations may touch on deeply held beliefs or challenge your ideas about the legal system. I expect that we will treat one another with dignity and respect in these debates, even where we disagree.

In these conversations, I know that I will likely make mistakes. If I say something that you think is misguided or offensive, please email me or meet with me to discuss it. I want to make our classroom a space for candid and honest discussions.

### *Accommodations*

I am committed to making our classroom a safe and accessible space for all members of our community. If you have questions about accommodations or supportive measures, including situations in which English is not your native language, please review the guidance available in Chapter 8 of the Student Handbook, or contact Assistant Dean of Student Affairs Branden Nicholson at [lawstudentaffairs@wfu.edu](mailto:lawstudentaffairs@wfu.edu) (<mailto:lawstudentaffairs@wfu.edu>).

If you encounter any disability-related barriers in this course, please reach out to the Wake Forest University Center for Learning, Access, & Student Success (CLASS) at 118 Reynolda Hall. You can contact them at 336-758-5929, visit their website at <https://class.wfu.edu>  (<https://class.wfu.edu/>), or email [class@wfu.edu](mailto:class@wfu.edu) (<mailto:class@wfu.edu>). It's important to seek accommodations as early as possible, as the law school cannot provide retroactive accommodations



### *Computer and Technology*

You are welcome to use a computer to take notes during class, but if you choose to do so, please be respectful of those around you. If laptop use becomes a detriment to classroom learning, I reserve the right to implement an individual or class-wide ban.

Cell phones must be silenced and put away. If you have a legitimate need to leave your cell phone out, please speak to me ahead of time.

Students are not allowed to use advanced automated tools (artificial intelligence or machine learning tools such as ChatGPT) on any assignments in this course, whether graded or ungraded.

### *Class Polling*

We will use real-time polling in class. Please sign up for a free account at <https://www.polleverywhere.com/>  [https://www.polleverywhere.com](https://www.polleverywhere.com/)  <https://www.polleverywhere.com/>.

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## **Grading**

Your grade has two components: attendance and participation (20%) and the final exam (80%).

### *Attendance and Participation*

I expect everyone to attend class on time. It is distracting for someone to enter the classroom after class has begun. Consistently arriving late to class will lower your final grade. I also expect everyone to attend every class. In accordance with the law school's policy on class attendance, students who miss four or more classes will not be permitted to sit for the final exam absent illness or extraordinary circumstances.

I will record all class sessions, although please keep in mind that technical problems or human error may prevent successful recording. As a result, if you miss class, you should ask a fellow classmate to take notes for you. All recordings will be available for viewing only by students enrolled in the class via Canvas and may be used solely for the purpose of participating in the course. You may not download, copy, post online, or otherwise distribute any portion of the recordings for any purpose.

Attendance is more than presence – it is also active participation. I therefore expect you to keep up with the reading and attend prepared to discuss the materials. In addition to voluntary class participation – which I encourage! – I will randomly call on students during each class, using a panel system. During these cold calls, I do not expect you to be perfect. These are opportunities to learn, not tests of your knowledge.

I understand that sometimes, for whatever reason, you would prefer to not be called upon to speak on a particular day. Please contact me before class to let me know and I will switch you to the

following class session's panel. However, using this option more than once during the semester will result in a lowering of your final grade. If you miss a class session when your panel was on call, I will call on you during the following class session.

You will be completing several review assignments designed to improve your performance in the course. Since these assignments are not designed to evaluate your performance, but rather are simply to help you to evaluate your own learning, they are not graded in the traditional sense of the term. However, they contribute to your overall participation grade.

### *Final Exam*

The final will be scheduled by the Registrar's office. The only material you will be permitted to bring to the exam will be the Federal Rules of Evidence. To help you prepare, I have set aside the last class session to review the semester's material.


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### **Contact Info & Office Hours**

Please come by my office (Worrell 3331) with questions, concerns, or just to chat! My formal office hours are Wednesdays from 10am to noon, but you are also welcome to schedule an appointment for another time by emailing me at [georgemp@wfu.edu](mailto:georgemp@wfu.edu) (<mailto:georgemp@wfu.edu>).

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## Course Summary:

Date	Details	Due
Sun Sep 22, 2024	 <a href="#">Review Assignment 1</a> ( <a href="https://wakeforest.instructure.com/courses/67881/assignments/475259">https://wakeforest.instructure.com/courses/67881/assignments/475259</a> )	due by 11:59pm

Collapse All

[View Progress](#)

Publish All

+ Module



	▼ Week 1: Intro, Judicial Notice, and Relevance		
		+	
	<b>Monday, Aug. 26</b>		
	<b>Complete: Survey; NameCoach Entry</b>		
	Intro Survey		
	<b>Read: pp. 1-18, FRE 101, 102, 201, 1101 and Advisory Committee Notes</b>		
	Link to Advisory Committee Notes (please bookmark this page - you'll need it every class)		
	<b>Wednesday, Aug. 28</b>		
	<b>Read: pp. 19-34; FRE 104(a)-(b), 401, 402 and Advisory Committee Notes</b>		
	<b>Watch: Video on FRE 401 &amp; 402</b>		
	Video on Rules 401 & 402		
	Video on Rules 401 and 402 - slides.pdf		

	▼ Week 2: Prejudice and Propensity Evidence		
		+	
	<b>Monday, Sept. 2</b>		
	<b>Read: pp. 35-64; FRE 105, 403 and Advisory Committee Notes</b>		
	<b>Watch: Video on FRE 403</b>		
	Video on Rule 403		
	Video on Rule 403 - slides.pdf		
	<b>Wednesday, Sept. 4</b>		
	<b>Read: pp. 65-87; FRE 404 and Advisory Committee Notes</b>		
	<b>Watch: Video on FRE 404</b>		
	Video on Rule 404		
	Video on Rule 404 - slides.pdf		

⋮	▼ Week 3: Prior Bad Acts and Exceptions	✓	+	⋮
	Monday, Sept. 9	✓		⋮
	Read: pp. 88-119	✓		⋮
	Wednesday, Sept. 11	✓		⋮
	Read: pp. 120-49; FRE 404(a)(2), 405, 413-415, and Advisory Committee Notes	✓		⋮
	Watch: Video on FRE 413-415; Video on FRE 404(a)(2) and 405(a); Video on FRE 405(b)	✓		⋮
	📄 Video on Rules 413-415	✓		⋮
	📎 Video on Rules 413-415 - slides.pdf	✓		⋮
	📄 Video on Rule 404(a)(2) and 405(a)	✓		⋮
	📎 Video on Rules 404(a)(2) and 405(a) - slides.pdf	✓		⋮
	📄 Video on Rule 405(b)	✓		⋮
	📎 Video on Rule 405(b) - slides.pdf	✓		⋮

⋮	▼ Week 4: Witness Character Evidence and Rape Shield Laws	✓	+	⋮
	Monday, Sept. 16	✓		⋮
	Read: pp. 150-67; Skim: pp. 168-80; FRE 607-609 and Advisory Committee Notes	✓		⋮
	Watch: Video on Rules 608 and 609	✓		⋮
	📄 Video on Rule 608	✓		⋮
	📎 Video on Rule 608 - slides.pdf	✓		⋮
	📄 Video on Rule 609	✓		⋮
	📎 Video on Rule 609 - slides.pdf	✓		⋮
	Wednesday, Sept. 18	✓		⋮
	Read: pp. 181-93; FRE 412 and Advisory Committee Notes	✓		⋮

⋮	▼ Review Assignment #1	✓	+	⋮
🚀	<b>Review Assignment 1</b> Sep 22   30 pts	✓		⋮

⋮	▼ Week 5: Lay and Expert Opinions	✓	+	⋮
	<b>Monday, Sept. 23</b>	✓		⋮
	Read: pp. 194-225; FRE 602, 701, 702(a), 704 and Advisory Committee Notes	✓		⋮
	<b>Wednesday, Sept. 25</b>	✓		⋮
	Read: pp. 231-38, 245-53; FRE 702(b)-(d), 703, 705 and Advisory Committee Notes	✓		⋮

⋮	▼ Week 6: Hearsay	✓	+	⋮
	<b>Monday, Sept. 30</b>	✓		⋮
	Read: pp. 258-71; FRE 801(a)-(c) and Advisory Committee Notes	✓		⋮
	Watch: Video on Rule 801(c)	✓		⋮
	<b>Wednesday, Oct. 2</b>	✓		⋮
	Read: pp. 271-93	✓		⋮
	Watch: Video on Hearsay and Impeachment	✓		⋮

⋮	▼ Week 7: Hearsay Cont	✓	+	⋮
	<b>Monday, Oct. 7</b>	✓		⋮
	Read: pp. 294-313; FRE 801(d)(1)(A)-(B), 612, 613 and Advisory Committee Notes	✓		⋮
	Watch: Video on Rule 801(d)(1)(A)-(B)	✓		⋮
	<b>Wednesday, Oct. 9</b>	✓		⋮
	Read: pp. 313-29; FRE 801(d)(1)(C), 801(d)(2)(A)-(D), 801(d)(2)(E) and Advisory Committee Notes	✓		⋮

Watch: Video on Rule 801(d)(1)(C)



▼ Week 8: Hearsay Exceptions



Monday, Oct. 14



Read: pp. 329-49; FRE 803(1)-(3) and Advisory Committee Notes



Watch: Video on Rule 803



Wednesday, Oct. 19: NO CLASS. Enjoy Fall Break!



▼ Week 9: Hearsay Exceptions Cont



Monday, Oct. 21: NO CLASS. Complete Review Assignment #2.



Wednesday, Oct. 23



Read: pp. 350-75; FRE 803(4)-(23) and Advisory Committee Notes



Watch: Video on Rule 803



▼ Week 10: End of Hearsay (whew) and Confrontation Clause



Monday, Oct. 28



Read: pp. 376-404; FRE 804, 805, 807 and Advisory Committee Notes



Watch: Video on Rule 804



Wednesday, Oct. 30



Read: pp. 405-42



▼ Review Assignment #3







Drop files here to add to module

or choose files

⋮	▼ Week 11: Confrontation Clause Cont and Other Constitutional Limits	✓ ▼
		+ ⋮
	Monday, Nov. 4	✓ ⋮
	Read pp. 442-56	✓ ⋮
	Watch: Video on Confrontation Clause	✓ ⋮
	Wednesday, Nov. 6	✓ ⋮
	Read pp. 457-76	✓ ⋮

⋮	▼ Week 12: Authentication, Best Evidence, and Policy-Based Rules	✓ ▼
		+ ⋮
	Monday, Nov. 11	✓ ⋮
	Read: pp. 477-91; FRE 901, 1001-1008 and Advisory Committee Notes	✓ ⋮
	Watch: Video on Best Evidence Rule	✓ ⋮
	Wednesday, Nov. 13	✓ ⋮
	Read: pp. 492-514; FRE 406-410 and Advisory Committee Notes	✓ ⋮
⋮	Watch: Video on Rule 406	✓ ⋮

⋮	▼ Week 13: Policy-Based Rules Cont and Review!	✓ ▼
		+ ⋮
	Monday, Nov. 18	✓ ⋮
	Read: pp. 514-33, FRE 106, 411, 501, 502 and Advisory Committee Notes	✓ ⋮
	Wednesday, Nov. 20	✓ ⋮

