

Course	Evidence
Section	LAW 804 LSN
Professor	Will Morehead
Term	Spring 2018
Meetings	Tuesday 6:30-9:10 pm (weekly); Friday 6:30-9:10 pm (five sessions)

Professor's Contact Information

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General Course Information

<p>Introduction to the Course</p>	<p>The rules of evidence govern what information can be put before the factfinder in any trial or other contested hearing. Any daily occurrence in law, business, or on the streets -- whether an agreement, accident, or arrest -- can end up in litigation and headed for judgment in the courtroom, where the evidentiary rules reign supreme and are critical in deciding the outcome.</p> <p>No matter what kind of lawyer you become, your understanding of the evidentiary rules and their underlying objectives is necessary for professional competence.</p> <p>This course has the central goal of preparing students to be comfortable navigating and using the rules of evidence in general legal practice, at trial or other evidentiary hearings, and as presented on the Bar Exam.</p> <p>Our principal method will be to digest and internalize the rules, and then practice applying those rules to different factual scenarios.</p> <p>We will also examine the policies underlying the evidentiary rules, and examine what goals and whose interests are best served by the different and often competing priorities promoted by the rules.</p> <p>Finally, we will learn to think, raise objections, argue, and make strategic evidentiary decisions like seasoned trial lawyers.</p> <p>We will use real episodes from the courtroom to bring the rules of evidence to life.</p> <p>We will examine, and consider the evidentiary issues relating to, many actual pieces of evidence (including testimony, photographs, videos, records, and objects) from real cases.</p> <p>We will also use courtroom scenarios from notable and famous cases to illustrate evidentiary principles, best practices, and common pitfalls.</p>
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Required Texts & Materials	<ol style="list-style-type: none"> 1. <i>Learning Evidence: From the Federal Code to the Courtroom</i>, (Merritt & Simmons, 4th Ed.) 2. Federal Rules of Evidence (FRE): available in Merritt and online with Advisory Committee Notes (ACN) at www.law.cornell.edu/rules/fre/ 3. California Evidence Code (CEC): available online at https://leginfo.legislature.ca.gov/faces/codes.xhtml
On-line Materials	<p>This course offers the instructor’s powerpoint decks, outlines, problem sets, and other information online: http://lawschool.westlaw.com/twen</p> <p>In addition, the course textbook, <i>Learning Evidence</i>, is supplemented by the authors' website, www.merrittevidence.com. Select the publicly-available "Student Resources" section to find problem sets and short instructional videos.</p>
Course Objectives	<p>This course has the following specific learning objectives:</p> <ul style="list-style-type: none"> • Demonstrate competency in the FRE, upon which most states (including California) model their own rules of evidence. • Recognize the key distinctions between the FRE and CEC. • Learn and be able to articulate the often competing policies and conventions underlying the rules. • Develop advocacy skills to support the admission or exclusion of different kinds of evidence. • Apply the rules of evidence to factual scenarios, using appropriate objections, responses, arguments, and strategic judgment calls. • Articulate evidentiary issues from the perspectives of the lawyers, judge, jury, and the public at large.
Does this course satisfy the Upper Division Writing Requirement?	No
Does this course satisfy the Experiential Learning Requirement?	No
Is this course a California Bar Exam Subject?	No
Does this course satisfy any Specialization requirements?	No

Course Policies

<p>Attendance, Preparedness, and Class Participation</p>	<p>Just like in the courtroom, attendance and preparation are mandatory for this course, and may only be excused "for good cause."</p> <p>I will take attendance at the beginning of class, so tardiness is not advised. If a student cannot attend class, then that student must notify me by email before class with the reason for the absence.</p> <p>Any student who misses more than three class meetings will, at the instructor's discretion, have his or her final grade reduced by one step/grade level (e.g., from "A-" to "B+").</p> <p>Push/pull points will also be given on the basis of class participation. These may raise or lower your grade by one step/grade level (e.g., from "B" to "B+" or "B-").</p> <p>Students must attend a minimum of seventy-five percent (75%) of scheduled class meetings for this course. Failure to do so will result in the student's removal from the course as either an administrative withdrawal or as an incomplete course attempt, depending on the circumstances surrounding the absences.</p>
<p>Computer and Internet Policy</p>	<p>Laptops are allowed during class but only for the purpose of taking notes. Internet use and computer games are not permitted during class.</p>
<p>Accommodations</p>	<p>Golden Gate University School of Law seeks to provide reasonable and necessary accommodations to students with disabilities. Please meet with the Disability Service Coordinator in Room 2338 or email lawds@ggu.edu for information on how to receive accommodations. All communications with the Disability Service office are confidential.</p>
<p>Exercises</p>	<p>Student may be asked to participate in assigned and informal written and in-class exercises, including drafting motions in limine, making evidentiary arguments, and ruling on evidentiary issues. These exercises may contribute to a student's final grade through push/pull points.</p>
<p>Final Exam</p>	<p>The final exam will be closed book, but the table of contents to the FRE will be available. The final exam will consist of multiple choice questions and an essay. Students should consult the GGU website for the date of the exam or check with lawexams@ggu.edu.</p>
<p>Grading Method</p>	<p>Students will receive a letter grade based on the final examination. There will be no midterm. As noted above, the final grade may be adjusted upward or downward based on class participation and exercises.</p>

Assignments & Academic Calendar

[The following schedule is provided for your planning purposes and is subject to change based on the course's progress]

1/9, 1/12, 1/16, 1/23, 1/30, 2/6, 2/13, 2/27, 3/13, 3/20, 3/27, 4/3, 4/10, 4/17, 4/24

Class	Date	Topics	Merritt Chapters	Rules
1	1/9/18	Intro to Evidence and Trials; Relevance; Prejudice, Confusion, Waste of Time	1-7	FRE 103, 105, 401-403
2	1/16/18	Fitting Rules Together; Rule of Completeness; Preliminary Questions; Judicial Notice	8, 24, 34, 59	FRE 104, 201
3	1/19/18 (Friday)	Examining Witnesses; Refreshing Recollection; Role of the Jury	14-16; 72	601-606, 611, 612, 614-615 CEC 760-778
4	1/23/18	Impeachment	17-19	FRE 607, 613 , 801(d)(1) CEC 780-791
5	1/30/18	Impeachment	20-23	FRE 608-610
6	2/6/18	Authentication; Best Evidence; Presumptions; Intro to Hearsay	69-71	FRE 901-902, 1001-1006 CEC 1400-1454
7	2/9/18 (Friday)	Hearsay & Non-Hearsay	35-38	FRE 801-802
8	2/13/18	Hearsay & Non-Hearsay; Statements by Party Opponents	53-55	FRE 801(d)(2) CEC1220-1228
9	2/23/18 (Friday)	Prior Statements; Present Sense Impressions; Excited Utterances	39-40	FRE 801(d)(1), 803(1)-(2) CEC 1235-1238
10	2/27/18	State of Mind; Medical Treatment; Recorded Recollection; Multiple Hearsay	41-44	FRE 803(2)-(7), 805
11	3/13/18	Business Records; Public Records; Other Exceptions	45-47	FRE 803(6)-(23)
12	3/16/18 (Friday)	Unavailability; Former Testimony; Dying Declarations; Statement against Interest; Forfeiture	48-52	FRE 804
13	3/20/18	Residual Exception; Attacking a Declarant's Credibility; Hearsay Recap; Confrontation Clause	56-58	FRE 806, 807 U.S. Const., Amend VI

14	3/27/18	Character Evidence	25-29	FRE 404-405 CEC 1100-1109
15	4/3/17	Crimes, Wrongs, Other Acts; Habit Evidence; Rape Shield Law; Sex Cases	30-33	FRE 404, 406, 412-415
16	4/6/17 (Friday)	Lay Opinion; Experts	60-62	FRE 701-706 CEC 720-723
17	4/10/17	Experts	63-65	
18	4/17/17	Privileges	66-68	FRE 501, 502 CEC 900-920, 950-962, 970-987, 1010-1034
19	4/24/17	Subsequent Remedial Measures & Settlements	9-13	FRE 407-411 CEC 1150-1160