

## **COURSE SYLLABUS - LAW 536 (SECTION 2)**

### **EVIDENCE – SPRING 2022**

**INSTRUCTOR:** Prof. Jennifer Brobst; Office 244, [jbrobst@siu.edu](mailto:jbrobst@siu.edu), 618-453-8702

**CLASS TIME/ROOM:** M/W/F 1:30 am – 2:45 pm / Room 204

**OFFICE HOURS:** by appointment on zoom – some group office hour sessions will be set on zoom

**COURSE DESCRIPTION:** This four-credit required upper division course is a survey of the rules and underlying theories governing the admission, exclusion, and sufficiency of evidence in court proceedings, emphasizing the Federal Rules of Evidence. Specific topics includes witness competency, relevance, credibility, authentication, hearsay, confrontation clause issues, privileges, lay and expert witnesses, and real and demonstrative evidence. Learning the Rules of Evidence is key to both effective trial practice and non-litigation practice, because out of court matters such as drafting a contract, giving legal advice, or engaging in settlement negotiations all involve evaluating and creating information that may be considered in litigation if all does not go as planned or used to preclude litigation.

**LEARNING OBJECTIVES:** Students will learn to correctly apply the Federal Rules of Evidence when arguing for and against the admissibility of evidence in civil and criminal litigation in both oral and written form. Specifically, students will learn to identify the purpose for which evidence is offered and the applicable rule for that purpose, and to critically assess the strategic risks of admitting or excluding such evidence. Students will also learn to identify, interpret, and argue for and against the application of several federal constitutional provisions in criminal cases that overlap with evidentiary concepts, such as the right to confrontation and the right to present a defense.

**FIRST CLASS:** To prepare for class before the semester begins, please read the following Federal Rules of Evidence carefully in the following order: 401, 403, 901, 602, 701, 703, 801, 804, and 404, as well as the flowchart on page 383 of the textbook. Don't read the rules in numerical order or the book from start to finish, because it will introduce the concepts in a confusing light. There is no other reading assignment for the first day of class.

**MAKEUP CLASS:** We have to make up one class due to the law school's holiday schedule. We will make up this time easily, because there is already a slight excess in class time built into the schedule (10 minutes per week).

#### **GRADED ASSIGNMENTS:**

**Mandatory practice essays/WAC and multiple choice quizzes** (must complete all essays and 3 out of 4 practice quizzes, may not take final exam if not completed on time but essay/quiz grade will not count in final course grade)

**Final exam (100%)** – 3 hour closed book essay and MC (list of rule names provided)

#### **REQUIRED BOOKS:**

- GEORGE FISHER, EVIDENCE (3d ed., Foundation Press 2013) (ISBN13 9781609300609)
- Federal Rules of Evidence, 2021 ed.; Quick Desk Reference Series (Michigan Legal Pub., ISBN13 9781640020900)

**OPTIONAL BUT RECOMMENDED:** PAUL GIANNELLI, *QUESTIONS & ANSWERS: EVIDENCE* (4th ed., Carolina Academic Press 2018) (ISBN 9781531009915)

**ATTENDANCE:** Students may miss up to a maximum of five (5) classes. There is no excused or unexcused absence policy at SIU and the professor does not need to know the reason for the absence. If you are absent, I trust your decision. If there is an emergency, please contact Dean Judi Ray. Late arrival should be rare and may be counted as an absence at the professor's discretion and/or the student may be asked to leave class that day if it causes an interruption in the class. Students who are called on and are wholly unprepared, including arriving to class without their book or the *Rules of Evidence*, may be marked absent for the day. This course is taught in person and requires active participation in order to understand trial practice.

**WORKLOAD EXPECTATIONS:** According to the American Bar Association guidelines, a student should study and prepare for approximately 2 hours before each 50 minute class. This includes taking time *after* each class to re-read and clarify detailed in-class notes and outlines. Thus, as each class in *Evidence* is the equivalent of 75 minutes, a student should prepare for approximately 3 hours before each class. Each week, as this is a 4 credit course, this would total approximately 9 hours of class preparation, in addition to about 4 hours of class time. That is, to be successful, you are expected to set aside the equivalent of an entire work day to learn *Evidence every week*. Reading is ordinarily about 20-25 pages per class.

### **ADDITIONAL COURSE ADMINISTRATION MATTERS**

**INTERNET, LAPTOP, AND PERSONAL DEVICE POLICY:** Use of laptops, tablets, smartphones, and other devices that provide internet access will be permitted in this course during lectures solely for academic use. If a student is found to be misusing this policy -- using electronic devices for nonacademic purposes or which distract other students -- the student may be asked to leave the class and may be counted as absent. The professor reserves the right to change this policy at any time, including prohibiting use of all electronic devices in the classroom.

**CLASS RECORDINGS:** Unauthorized recording or distribution of class recordings will be prohibited.

**CLASS EMAIL AND TWEN:** Per the law school regulations, students must regularly check and be responsive to email communications with faculty. Students are expected to regularly check the TWEN course page.

**ACADEMIC INTEGRITY:** Students must adhere to the SIU Student Conduct Code policies prohibiting plagiarism, cheating on examinations, false statements regarding assignment completion and authorship, false assertions regarding attendance, and other forms of dishonesty in academic performance.

**STUDENT SERVICES:** SIU has multiple resources through the law school and Saluki Cares for students with personal needs for support, including mental health, medical and other disability needs, as well as anti-discrimination, financial, legal, and other services (see <http://www.law.siu.edu/about/student-experience/support-services.html>). These support services are subsidized by your tuition dollars for a good reason. Law school is renowned for being academically difficult, but law students are also adults who frequently have other demands on their time, such as outside employment and family. It is a professional strength, not a weakness, to seek additional support to cope with law school if you need. The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or [siucares@siu.edu](mailto:siucares@siu.edu), <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help you access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.

**EMERGENCY PROCEDURES:** We ask that you become familiar with Emergency Preparedness at SIU. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness at SIU website and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.

**DISABILITY SUPPORT SERVICES.** SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or [disabilityservices.siu.edu](mailto:disabilityservices.siu.edu). You may request accommodations at any time, but timely requests help to ensure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should use the DSS Student Portal to notify their faculty members and the School of Law Registrar's Office of their accommodations.

**SALUKI CARES.** The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotion, financial, or personal. By working closely with faculty, staff, students, and their families, SIUC will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-2461, or [siucares@siu.edu](mailto:siucares@siu.edu), <https://salukicare.siu.edu/index.php>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu) and her phone number is 618- 453-3135.

**COVID-19.** SIUC'S policy on face masks and social distancing is consistent with the guidance from the Centers for Disease Control and Prevention and the Illinois Department of Public Health. For up-to-date information, students, faculty, and staff should visit SIUC's COVID website ([siu.edu/coronavirus](http://siu.edu/coronavirus)), which includes the Saluki Safety Plan. People can also send an email to [pandemicinfo@siu.edu](mailto:pandemicinfo@siu.edu).