

# Evidentiary Hearings

## Professor Kathryn Powers

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### CONTACT INFORMATION

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I look forward to our time together this semester. I hope you will take the time to come to office hours, which are anytime you and I are both free. Please call or text me at the number above or email me to schedule a meeting time that works for you. If you text, be sure to identify who you are.

### COURSE DESCRIPTION

The use of the rules of evidence in evidentiary hearings and trial settings is an art. Whether you intend to become a trial lawyer or not, the ability to advocate for your client in various settings is invaluable skill that will translate into whatever area of law you practice.

This course will allow students to study discreet, law practice-oriented topics not otherwise covered in the standard law school curriculum. This course will provide practical instruction on the use of state and federal rules of evidence in evidentiary hearings, including witness impeachment, hearsay, and proffers. The course will also include discussion of and practical guidance about preparing for evidentiary hearings.

In this course, you will learn the fundamental skills involved in trial advocacy through the use of evidence.

## LEARNING OBJECTIVES

By the end of this course, you should (1) understand the rules, procedures, and protocols of a trial; (2) have developed the ability to craft direct examination questions to admit evidence and lay proper foundation for various pieces of evidence; (3) write and deliver motions in limine regarding the admission and exclusion of evidence; (4) write and deliver direct examination questions to tender and admit expert testimony; (5) recognize potential evidentiary hearsay issues and objections and be prepared to address how to admit hearsay evidence; (6) develop a strategy for impeachment of witnesses; (7) deliver evidentiary proffers.

## REQUIRED TEXTS

- None. All of your evidentiary problems will be based on witness statements and exhibits that will be uploaded to Canvas for use during the session.
- Post course asynchronous material will be assigned for the completion of an evidentiary notebook.

## READING ASSIGNMENTS & PROBLEMS

Reading assignments and problems are posted on Canvas under each week's module. For each class you will have an assigned reading as well as a problem.

Unless otherwise indicated, you may work collaboratively with others in the class to prepare; in fact, I encourage you to work together. Collaboration is a skill all lawyers must learn and use. However, no student should simply give his or her answers to another student.

## CLASS FORMAT

We will be holding class in person

Cell Phone

You are training to be a professional, so please act as though you are in court. All cell phones must be turned off (not put in vibrate mode) while you are in class whether online or in person.

## **ATTENDANCE & PARTICIPATION**

You are an adult and are paying for your education. Each class costs you (or your parents) about \$100. I would thus anticipate that you would want to attend class and participate. To participate, you must have read the assigned reading, watched the required videos, and be prepared to present. Thus, please come to class prepared and ready to participate. If you are not prepared or ready to participate, do not come to class absent an emergency. Similarly, I promise not to come to class unprepared.

## **PROFESSIONALISM**

Lawyers have ethical and professional responsibilities—these responsibilities are owed to clients, to colleagues, to other lawyers, to the legal system, and to the wider community. To further this professional expectation, professionalism matters in this class. Behaving professionally means that you will submit all work on time in accordance with the rules; you will be prepared for class or not come to class; you will participate in class discussions in a productive and respectful manner; you will be candid and abide by the honor code; you will treat your colleagues and me in a courteous manner; you will think twice before sending a critical or demanding email; and you will minimize distractions during class (e.g., talking to others during class, arriving late or leaving early, using technology inappropriately).

### **Some notes about class participation**

In determining how well you have participated in class when called on, I do not equate eloquence with excellence. Rather, I am looking to see whether you (a) have spent time preparing for class, and (b) work to make substantive contributions in class to facilitate our discussion of course materials. If it is obvious, when called upon to present, that you have made a good faith effort to prepare for class but are having trouble presenting the material, your performance will not count against you. The only way to effectively develop trial skills is to practice them.

## **PLAGIARISM**

Plagiarizing another's work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must be reported to the Bar Examiners, even if you are cleared of any violation. Plagiarism includes any of the following:

passing off another's ideas, words, or work as one's own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author's work with quotation marks, footnotes, or other appropriate designation in such a way as to make clear the true author of the work.

Further, regardless of the outcome of the honor court investigation, I have the right to penalize your grade in this class, which I have done and will do.

### **ASSIGNMENTS & GRADING**

- This is a pass/fail 1-credit course.
- Your course grade will be based upon class participation, writing exercises, preparation of a final evidentiary notebook of questions and motions, and performance both as advocates and as witnesses. In order to gain the maximum benefit of the class, students are expected to attend all thirteen class hours, carefully read and consider assigned materials, and prepare for class exercises. Students will be called upon during class to perform practical exercises and preparation both as the lawyer and as a witness. A student who fails to prepare as a witness or as an advocate or submit assigned outlines for exercises on two occasions or who fails to prepare a trial notebook will be at risk of failing the course.

### **REASONABLE ACCOMMODATION**

Students needing accommodation due to a disability should contact the Access and Accommodation Office on main campus to complete the verification process to become approved for services. Dean Leffall can assist you. Here are their directions:

To receive accommodations, each term, students will request accommodation and faculty notification forms through the Access Office online system Accommodate. Students are strongly encouraged to schedule a meeting with each professor promptly to discuss arrangements. Accommodations are not retroactive. Note - Disability accommodations or status are not reflected on academic transcripts. Students with a history of a disability, perceived as having a disability, or with a current disability who do not wish to use academic accommodations are also strongly encouraged to complete the verification process with the Access Office.

The Access Coordinator for Macon Campus is

Katie Johnson, Director and ADA/504 Coordinator.

Phone: (478) 301-2778; email: [johnson\\_kc@mercer.edu](mailto:johnson_kc@mercer.edu)

Website: <https://access.mercer.edu>

## QUESTIONS?

I look forward to a good class. Attached you will find the University Health and Safety Protocols for the Spring 2023 Semester. Please let me know if you have any questions or suggestions.

Professor Katie Powers

## University Health and Safety Protocols for the Spring 2023 Semester

In order to promote safe campuses, students are required to follow these COVID-19 protocols:

- Check the University [COVID-19 website](#) and your Mercer email for important updates and messages.
- Masks are not required on campus, except at the Campus Health Centers on the Macon and Atlanta campuses. Of course, anyone who chooses to wear a mask on campus for their own protection is welcome to do so. Faculty may require masks when meeting in their individual offices with students, colleagues, or guests. Health science students and employees may be required to wear masks in clinical settings.
- **If you are [symptomatic of COVID-19](#), regardless of vaccination status, you cannot attend** in-person classes, labs, orientations, clinical/field experiences, other on-campus activities, or employment on campus. You should immediately call Campus Health's COVID-19 Hotline at (478) 301-7425 for a testing appointment during regular business hours or get tested immediately at an off-campus location. If symptomatic and tested off campus, please call to inform Mercer Medicine at (478)-301-7425.
- If you are [asymptomatic](#) (showing no symptoms) and would like to get tested, go to [go.mercer.edu/covidappt](http://go.mercer.edu/covidappt) to schedule an appointment at the Macon or Atlanta Campus Health Center.

There have been changes to insurance coverage for COVID-19 testing. As a result, Mercer Medicine will bill your insurance company for COVID-19 testing if you are symptomatic or have been exposed recently to someone who has tested positive for COVID-19. The University covers the costs of COVID-19 testing for Mercer on Mission, Study Abroad, and other University-related international travel programs. If you are tested for other reasons, you will be required to pay \$90 at the time of testing.

- Testing locations:
  - Macon – Campus Health Center, Drake Field House, Macon Campus
  - Atlanta – Campus Health Center, Sheffield Building, Atlanta Campus
  - Savannah – Memorial University Medical Center, Savannah Campus (Dr. Kirkpatrick)
  - Columbus – Mercer University School of Medicine, Columbus Campus (Dr. House)
- Mercer Medicine accepts off-campus PCR test results and **positive** antigen test (known as rapid test) results from reputable testing facilities.

Mercer Medicine does NOT accept

- [negative](#) antigen test (called rapid test) results;
- home/self test results; and

- antibody test results.
- All students must submit **off-campus, positive COVID-19 results** immediately to Campus Health at [mytestreport@mercer.edu](mailto:mytestreport@mercer.edu). In the subject line of the email, type “Macon Test” (for Macon, Savannah, and Columbus students) or type “Atlanta Test” (for Atlanta, Henry, and Douglas students). Be sure to include your full legal name and Mercer ID in the body of the email.

Off-campus positive results must be submitted to Campus Health as soon as you receive them. If you fail to submit your results in a timely manner, excused absences and academic accommodations will not be provided beyond the five days after testing.

- If you test at the Campus Health Center and test **positive**, a Campus Health staff member will call you from a Mercer phone number with the positive result. With a **negative** result, you will receive an email in your Mercer email account.
- Do not submit COVID-19 results directly to faculty, the Dean’s Office, or Student Affairs for COVID-related, excused absences. All COVID-related absences must be processed through Campus Health and the Office of the Provost. Faculty are then notified of a student’s COVID-related, excused absence(s).
- Faculty are required to provide academic accommodations to students who are in isolation after either testing positive at the Campus Health Center or submitting off-campus, positive test results to Campus Health at [mytestreport@mercer.edu](mailto:mytestreport@mercer.edu).
- If you **are symptomatic and awaiting test results**, you must isolate and be provided academic accommodations during this brief isolation period. If you tested on campus, faculty will be notified. If you are symptomatic, tested off campus, and are awaiting results, contact Campus Health immediately at 478-301-7425 so that faculty can be notified. If you do not receive your results within two (2) business days, contact Campus Health at 478-301-7425 for a testing appointment on campus.
- The isolation period for COVID-19 has been reduced to **five days**. While in isolation, you must complete your daily **Bear Check** as a way for Mercer Medicine to monitor your symptoms. The Bear Check is located in MyMercer > Dashboard > Action Items.

**You must remain in isolation until you are cleared by Mercer Medicine.**

- **Residential students** who test positive have these isolation options:
  - Recover at home, if possible.
  - Isolate in place in your own room. Isolating in place means that you stay in your current residence, distance yourself from roommates/suitemates as much as possible, and wear a mask inside the residence as often as possible. Roommates/suitemates should also wear masks inside the residence as often as possible.

You may leave your assigned room, while wearing a mask, **only** to seek medical care and pick up to-go or delivery meal options to eat in your room. For students on the Macon campus, Aramark provides to-go meals.

Contact the Office of Housing and Residential Life with questions or concerns:

Macon: (478) 301-2687  
Atlanta: (678) 547-6104

### **Mental Health and Wellness**

Mercer University faculty and staff recognize that mental health concerns can impact academic performance and interfere with daily life activities. Because stress is a normal part of the college experience, learning to manage stress effectively is crucial to your well-being and overall success. Please notify your faculty member or academic advisor for academic assistance, as needed. CAPS can also provide support if you're feeling anxious, overwhelmed, depressed, lost or are struggling with personal issues. Please call or visit the [Counseling and Psychological Services \(CAPS\) website](#) for more information. These services are free and confidential, and support non-traditional, graduate, and undergraduate students. Students may access CAPS at the location of their academic program: MACON – Counseling Center (formerly the Honors House), 478-301-2862; ATLANTA – 215 Sheffield Student Center, 678-547-6060. Students at Regional Academic Center and other locations may obtain assistance in finding local services by contacting the CAPS Office nearest them. We also encourage students to call or text 988 to reach the National Suicide & Crisis Line if needed.

### **Disability Statement**

Students in need of accommodation due to a disability should contact the Access and Accommodation Office to complete the verification process to become approved for services. In order to receive accommodations, each term, students will request accommodation and faculty notification forms through the Access Office online system Accommodate. Students are strongly encouraged to schedule a meeting with each professor in a timely manner to discuss arrangements. Accommodations are not retroactive in nature. Note – Disability accommodations or status are not reflected on academic transcripts. Students with a history of disability, perceived as having a disability or with a current disability who do not wish to use academic accommodations are also strongly encouraged to complete the verification process with the Access Office.

Students must request accommodations in a timely manner to receive accommodations in a timely manner. A link to the Office of Access and Accommodations is here: <https://access.mercer.edu/>