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If disability related accommodations are necessary (for example, a note taker, extended time on exams, captioning), please register with the Disability Center (<http://disabilitycenter.missouri.edu/>), S5 Memorial Union, 573-882-4696, and then notify Dean Trachtenberg of your eligibility for reasonable accommodations. For other MU resources for students with disabilities, click on “Disability Resources” on the MU homepage.

## **EVIDENCE**

Spring 2024

Professor Ben Trachtenberg

Class: Monday/Wednesday/Friday, 9:00 – 10:10 a.m., Room 6

Office Hours: By appointment, Deans’ Suite (Second Floor of Hulston Hall)

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## **FIRST WEEKS’ ASSIGNMENTS**

### **Course Materials**

The textbook is George Fisher, *Evidence* (Foundation Press, 4th ed. 2023) (ISBN: 9781640201606).<sup>1</sup> We will often make reference to the Federal Rules of Evidence (“FRE” or “Rules”). While the Rules are widely available online and have certain portions reprinted in the textbook, you also may wish to purchase George Fisher, *Federal Rules of Evidence 2024 Statutory Supplement to Fisher’s Evidence* (ISBN: 9798892090445).

***Some thoughts on the Supplement (whether it is worth buying, and how you might save some money):*** I strongly recommend buying the supplement. Many students will find it helpful because the Federal Rules of Evidence were amended (“restyled”) as of Dec. 1, 2011, and the supplement illustrates all the changes (many important cases quote the old version of the rules, so seeing the changes can be useful). The supplement also describes more recent amendments to the FRE and contains proposed amendments likely to become law in the future. Note, however, that much of the material in the 2024 supplement also appears in previous versions. So an older edition

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<sup>1</sup> Can you get away with buying the 3d edition to save money? Probably, but it will require substantial extra work by you. The new edition contains Supreme Court cases decided after the 3d edition was published in 2012, along with other new material. It also reflects amendments to the FRE enacted over the past decade. It will be your responsibility to find new material and discover differences between the old and new editions.

of the supplement (especially the 2023 edition), if available used at a low price, might be sensible to buy, as long as you then track down certain extra material on your own.

According to Professor Fisher, here are the key differences between the 2024 supplement and the previous (2023) version: “The most important additions are case notes on newly decided *Samia v. United States* and on cert grants in *Smith v. Arizona* and *Diaz v. United States*. Proposed new Rule 611(d) is now Proposed new Rule 107. And proposed amendments to Rules 106, 615, and (most importantly) 702 are now law.”

The casebook and supplement should be available at the MU Bookstore, as well as from other retailers.

### Class Assignments—Opening Weeks

For each and every assignment, please be sure to read the relevant section(s) of the Federal Rules of Evidence, as well as the advisory committee notes and legislative history. (When the casebook says “Focus on FRE 401,” for example, please read Rule 401 and its notes.) When an assignment refers to “Supp.,” the material is available in the statutory supplement. Students choosing not to buy a supplement are responsible for finding the material elsewhere.

Wed., Jan. 17 Class 1	<b>Introduction to Evidence</b> Casebook Pgs. 1-18 (through end of the dissent in <i>Tanner</i> ) Supp. FRE 606(b)
Fri., Jan. 19 Class 2	<b>Introduction (Continued); Relevance Basics (Part I)</b> Casebook Pgs. 18-38 (not including the start of <i>James</i> ) Supp. FRE 401 & 402, FRE 606(b)
Mon., Jan. 22 Class 3	<b>Relevance Basics (Part II)</b> Casebook Pgs. 38-61 Supp. FRE 104(b) & 403
Wed., Jan. 24 Class 4	<b>Relevance (Unfair Prejudice Continued, Evidence of Flight)</b> Casebook Pgs. 61-79 Supp. FRE 403 (again)
Fri., Jan. 26 Class 5	<b>Relevance (Probability, Stipulations)</b> Casebook Pgs. 79-107 Supp. FRE 403 (yes, again)