

Law 607 - Section 329
Spring 2017 (W/F 10:00-11:50am)
Phone: 410-837-4610

Professor Gregory Dolin
Office #539
gdolin@ubalt.edu

PROPERTY

Course Policies & Syllabus - Part I

Welcome to Property. Below you will find a description of the course and course expectations.

LEARNING OUTCOMES

By the end of this course, the successful student will be able to:

- a. Demonstrate knowledge of doctrinal property law and the policy goals that underlie that law
- b. State the legal elements of various property doctrines;
- c. Cite authority in support of statements of law of property;
- d. Construct arguments using the facts to demonstrate that the elements of various property doctrines are satisfied;
- e. Assess the strengths of the various property claims and defenses;
- f. Construct arguments regarding interpretations of law based on other legal sources, theory, and policy.

TEXTBOOK & READING ASSIGNMENTS

The assigned textbook for this course is Jesse Dukemenier, *et al.*, *Property: Concise Edition* (Aspen Publishers, 2014; ISBN-13: 978-1454868828) (sometimes referred to as “the casebook” or as “Dukemenier”). I may occasionally assign supplemental materials, and if I do so, I will distribute them via email. This means that you must periodically check your school-assigned email address. I also recommend (but it is by no means required) *A Short and Happy Guide to Property* by Paula Franzese (Thomson, 2011; ISBN-13: 978-0314274021). Other study aids may be purchased at your own discretion.

I have attempted to assign one major topic per class. Unlike Torts, which I taught last semester, Property is not as case-based. Rather, property law is based on combination of (old) cases, statutes, constitutional provisions, etc. For this reason, I do not break down your reading by case names. Instead I just assign a certain number of pages to read for each class. In addition to “full-blown” cases (of which there will be plenty) these pages contain “notes,” questions, and problems. The notes present important nuances to the basic rules that you will get out of reading the major cases. The problems and questions will be covered in class. As one of the students observed in his evaluation, “it was difficult to follow the sequence of examples as a class discussion. Especially when many of us had not read the examples until we went over them in class.” In order to avoid encountering similar difficulties, I expect you to read the examples and be prepared to discuss them. If you need further motivation, recognize that your exam will look very much like these questions and problems. In summary, you are equally responsible for the “full-blown” cases and the discussion in the notes, even if the bulk of the class discussion will be spent on the former.

I try to cover one assignment each class day. However, the syllabus is somewhat tentative and subject to changes announced in class and/or by email notice. This is because of the inherently fluid nature of coverage in a first year class.

If we depart from rigid adherence to this syllabus - which is likely- you **should stay at least one full assignment ahead of wherever we may be**. On the other hand, please **do not read too far ahead**. You will get far more out of the class discussion if the cases are fresh in your mind when we take them up in class. There is no profit in reading material a week in advance if you only have a vague memory of it when we finally get to it in class. As a rule of thumb, expect us to get, on average through 15-20 pages per hour. (This is just an estimate, and we may end up going a little slower, especially in the beginning, if circumstances warrant).

I reserve the right to skip over some topics or questions in class. Please note that while we may not discuss every case or topic in class, **you are responsible for all assigned material on the examination**, unless I specifically state otherwise. A second assignment sheet will be distributed at about the middle of the semester.

I will do my best to get to know you relatively quickly; however, I am not particularly good with names. So please bear with me if I don't recall your names right away. (In order to help me learn your names quickly, I will ask you to adhere to the seating chart. *See below.*)

Don't hesitate to stop by my office and introduce yourself during the first few weeks of class, or anytime thereafter, not just with questions about the course, but to talk about law school, the job market, the stock market, sports, politics, travelling, horseback riding, or just to vent.

LAPTOPS

Students may use computers or other electronic devices for taking notes. However, there is no reason for any student to connect to the school's network or to surf the web during class. The same applies to playing games or using computers for any purpose other than note-taking, such as, but not limited to, instant messaging, updating your Facebook profile, posting to your blog, checking scores, etc. Such extraneous computer activities ensure that you will do worse in this course than you expect, and they are also unprofessional because they are disruptive to your fellow classmates sitting next to and behind you. Furthermore, it might surprise some of you, but (despite the fact that I cannot see your computer screens) I can tell when you are taking notes and when you are engaging in extraneous activities. If this becomes a problem, I reserve the right to ban laptops altogether, or to mark those individuals who are engaged in extraneous activities as absent. Ultimately though, you all are adults and can make your own rational choices. Choosing to browse the web instead of engaging in class discussion will most likely be detrimental to your grade.

CLASS ATTENDANCE

I consider regular attendance, preparation and participation part of your obligation in taking this course. Because I expect students to attend class, I do not formally excuse absences and there is no need to inform me in advance that you will be absent. I presume that students who miss class must be doing so for good reason. Attendance will be taken as per the Law School rules. If, however, any kind of personal emergency arises that will cause you to miss multiple classes,

please inform either me or the Office of Academic Services so that we can make the arrangements necessary to minimize the adverse impact on your studies.

Please also note that **I reserve the right to bar students from taking the final examination if attendance, participation or preparation have been inadequate.** In this regard, please also see the information on “Attendance” in the 2016–17 Law School Bulletin.

CLASS PARTICIPATION

Law school policy permits me to raise grades by one “step” (e.g., from “B” to “B+”) for superior class participation. I expect to make use of that policy. Conversely, the policy permits me to lower grades one “step” for poor participation. While I don’t expect to grade based on *non-* participation, I may (and will) lower grades for lack of preparation, or for unprofessional conduct in class (e.g., booing, hissing, or insulting your classmates). Please keep in mind that the purpose of law school is to explore ideas, even if those ideas seem outrageous at first blush. To that end, I require that you give due respect to your classmates and the thoughts they express in class. On the other hand, when speaking in class please attempt to make your comments thoughtful and keep them on-point.

This class, like every class, works best with widespread student participation. I hope much of that participation will come voluntarily, but I will regularly call on students to ensure broad participation. I do this for two reasons.

First, many of the issues we will talk about this semester are contested ones, and they often are the subject of current debate in courts, legislatures, and academic publications. We may not be able to resolve these issues in class, but all of us will understand them much better after in-class debate. Second, the ability to think and speak on your feet is an essential skill in virtually all forms of legal practice. You are much better off learning that skill in law school than when you are in practice. You should therefore treat our classroom time as an opportunity to practice your advocacy skills.

This semester I have decided to provide further incentives to encourage participation. As you know, in assigning the Law School permits me to set class average anywhere between 2.67 and 3.0. The broader and deeper the class participation is, the more likely it will be that the average will be towards the higher end of the scale (*i.e.* everyone will benefit by getting higher grades). Conversely, anemic class participation will result in the class average being closer to the lower end of the scale (*i.e.*, everyone will suffer by having lower grades). Thus, you are all in this together. Keep that in mind when you are making your decisions on whether to participate.

If you have not been able to prepare for class on a particular day, please let me know before class begins and I will not call on you that day. You will, however, receive only ONE (1) such pass this semester. If you are present and have not taken a pass for the day, I will assume you are prepared to participate fully. If you are called on and are not prepared, I will mark you as absent for that day, because in my view being “present” involves more than just being physically in your seat; it also involves being mentally present.

SEATING CHART

Early in the semester I will circulate a seating chart. As I mentioned, it will greatly help me learn your names. To that end, **you must sit in your assigned seat for EVERY SESSION.**

Even if you have not done the reading assignment you must sit in your assigned seat. Even if you arrive late (and please do your best to be on time as late arrivals are highly disruptive) you must sit in your assigned seat — and that is so even if it requires you to walk in front of other students to take your seat. If you are not sitting in your assigned I will interrupt the class and ask you to move.

TITLE IX SEXUAL MISCONDUCT AND NONDISCRIMINATION POLICY

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

OFFICE HOURS; COMMENTS & SUGGESTIONS

I don't have formal "office hours," because it implies that those are the only times I am willing to see students. Rather, I welcome students to stop by my office whenever I am there. If I am unable to talk with you on the spot we can set aside another time. If you stop by and I am not at my desk, you can send me an e-mail or leave a voicemail. If you prefer to set up an appointment time in advance (rather than just showing up) that is perfectly fine.

I also welcome any comments or suggestions that you may have regarding the class. These can be made at anytime during the semester by whatever medium you find most convenient. Feel free to send me an email, give me a call, or drop by my office. Rest assured I won't take offense at any constructive criticism, but if you wish to remain anonymous, feel free to just slide a note under my door.

TEACHING ASSISTANT

I have a teaching assistant for this course. Her name is Brendan Fallon. You can contact him via email at brendan.fallon@ubalt.edu. I highly encourage you to make use of his experience and knowledge not just as a Property student, who scored very highly on the exam, but as a recent 2E who knows your plight all too well.

TAPING POLICY

You may not make your own tape recordings of the class, either for yourself, for a classmate, or for any other person or purpose. I will only authorize taping by the Law School Media Center in two circumstances:

- (1) I will arrange taping on days when it is likely that a large number of students will likely be absent because of religious, professional, or political commitments or because of logistical difficulties. Examples falling into this category would include class sessions that fall on major Religious Holidays, those that coincide with major public or political demonstrations taking place in Baltimore/Washington area, or those that occur on days where weather conditions or transportation disruptions make it difficult to get to campus even

though the law school remains open.

(2) I will permit taping if any given student is likely to miss 2 **or more sessions** because of a documented medical or family emergency. Examples falling into this category involve serious illnesses such as the flu, protracted hospitalizations after surgery or an accident, or the need to travel out of town for extended period to attend to the needs of a seriously ill loved one.

Please do not approach the Office of Academic Services with requests to tape my class. They have been instructed not to do so unless I authorize the taping. **Please do not request me to tape if you will need to miss only one session for reasons such as a family wedding or funeral, a business trip, a minor illness, or a job interview.** In that case, you should get notes from a classmate and then (if you so desire) see me in my office if you have any questions. **Please do not request me to tape a class if the reason for you missing it is insufficiently serious (e.g., day at the beach).** Of course, if you have been permitted special accommodation as a result of any disability, you are exempt from this rule on the following conditions: 1) you must let me know of the exemption; 2) you may not share the tapes with anyone else; and 3) you must destroy all tapes after the final exam. Violation of these rules will be considered to be breach of the Honor Code.

FINAL EXAMINATION

Your grade in the course will be based on your performance on the final examination with possible upward adjustment for class participation as indicated above. The examination will be conducted according to the schedule set by the Records Office. **Please note, that information in the published exam schedule and/or promulgated by the Office of Academic Affairs supercedes any information to the contrary that I may mention in class or elsewhere, and you are responsible for keeping apprised of the date, time and location of the exam.**

I will not prohibit you from using commercially prepared outlines for the exam, but I strongly discourage you from doing so because those materials are not always correct. It should go without saying that, to the extent there is a conflict between a commercial outline and course materials, the course materials govern.

I will provide further detailed information about the format of the exam later in the semester.

OTHER POLICES

All law school policies that appear in the 2016–17 Bulletin are applicable to this class and are fully incorporated by reference. If you are in doubt about the propriety of certain action or inaction, ask first. It is always easier to receive permission than forgiveness.

I RESERVE THE RIGHT TO CHANGE THE SYLLABUS AND ANYTHING ELSE DISCUSSED HEREIN, except those policies pertaining to attendance and grades, which will not be altered under any circumstances.

READING ASSIGNMENTS

WHAT IS PROPERTY? THEORIES OF PROPERTY; ACQUISITION OF PROPERTY

Class 1: Theories of Property; Acquisition by Discovery/Conquest/Capture
34-37; 3-22; 27-34

Class 2: Right to Exclude; What can be Property?

37-44; 62-81; 97-102

Class 3: Acquisition by Find; Acquisition by Adverse Possession

103-113; 114-123 (through Problem 1)

Class 4: More on Adverse Possession

123-143

Class 5: Acquisition by Gift

143-159

THE ESTATE SYSTEM

Basic Estates

Class 6: History; Fee Simple; Life Estate
161-180

Class 7: Defeasible Estates

180-192

Future Interests

Class 8: Reversion; Possibility of Reverter; Remainders; Executory Interests
193-207

Class 9: Rule Against Perpetuities

208-210 (skim); 210-222

CONCURRENT INTERESTS

Class 10: Co-Ownership
223-230; 230-231 (skim); 232-251

LEASEHOLDS

Class 11: Lease; Delivery; Subleases & Assignments
264-285

Class 12: Subleases & Assignments Con't; Default

285-306

Class 13: Duties, Rights & Remedies

306-328

Second Part of the Syllabus and Second Part of the Handout to be Distributed Mid-Semester