

**SYLLABUS**  
**PROPERTY I—LAW 522-3**  
**SECTION 2**

Fall 2015  
Professor Ryan T. Holte

Credit Hours: 3

Mondays & Wednesdays, 1:30pm—2:45pm

Room 204

Exam: December 15, 2015, 8:15am

Office # 256

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Secretary: Susan Williams

This syllabus is subject to change at the discretion of the professor. The class will generally follow the order of this syllabus (see assignments *infra*) with further reading assignments distributed as the course progresses. Students should monitor TWEN for announcements, assignments, and any changes from the syllabus. You will be expected to check TWEN daily (or sign up for TWEN email updates) and are responsible for the materials posted.

**COURSE DESCRIPTION**

Property I explores an introduction to concepts of relationships between people to things. Attention is directed to: (1) implications of possession, including finding, bailment, and adverse possession of real property; (2) gifts of property; (3) the system of estates (including rules furthering marketability); and (4) landlord-tenant relationships. In general, Property I will answer: “what is property” and “how do I get property.”

Property Law is a required first-year course that is important in its own right as property plays a pervasive role in daily life. This course also provides essential background for more advanced courses that you may elect to study after the first year (like intellectual property related subjects). Just as important as the substantive property law that you will study are the skills that you will develop in this course and your other first-year courses. These skills include: case analysis; legal reasoning and argumentation; the drafting and interpretation of language; and the ability to think deeply and critically about how the law develops, changes, and is applied.

Throughout the semester we will focus on close reading and discussion of the cases, example hypotheticals, and problems presented in the casebook and TWEN website. Classes will consist of a mixture of Socratic discussion involving randomly selected students, brief lectures, open class discussion, and group activities.

The best way to succeed in this course is to read all of the assignments, come to every class, and to take high-quality handwritten notes. When studying for the final exam, I recommend preparing an outline, based on class notes and notes from your readings, that is detailed and comprehensive. Using the outline, you should also prepare an “attack outline” that lays out the steps you will go through and the issues you will address in

answering potential problems on the exam.<sup>1</sup> If you read the material, attend every class, pay attention and participate in the class discussion, and prepare your own outline and “attack outline,” you will perform at your best on the final exam.

## **OBJECTIVES**

### **Foundational Objectives**

You must achieve these objectives in order to benefit from the course as a whole and achieve the performance objectives on which you will be evaluated in the final examination. During this course, you will be able to:

1. After reading a judicial opinion (i.e., a case), identify and explain:<sup>2</sup>
  - the parties—who are they? who is suing whom? if this is an appellate opinion, who appealed?;
  - the procedural history and posture of the case—how did the case get to this court? what happened in the court below?;
  - the factual background of the case—what led to the dispute?;
  - the legal issues the case presents—what question(s) is this court being asked to decide? what relief is sought (e.g., damages, specific performance, rescission of the contract, an injunction?);
  - the parties arguments—what reasons does each party offer for why relief ought / ought not to be granted?;
  - the outcome—who won? what did the court order? and reasoning of the court (why did the court rule as it did?);
  - how the case can be compared to and distinguished from other cases you have read
2. Explain basic property law concepts, principles, and doctrines, as well as the relationships among those concepts, principles, and doctrines.

### **Continuing Objectives**

These objectives go beyond the basic skills described above and relate to the higher level, critical thinking that you will develop in all of your first-year law school courses and throughout your legal career. You will be able to:

1. Understand how the law develops, changes, and is applied.
2. Evaluate legal institutions, doctrines, and principles critically and from multiple practical, theoretical, philosophical, and social perspectives.

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<sup>1</sup> The Third Writing Assignment for the course will focus on creating a class outline and attack outline.

<sup>2</sup> This is an excellent checklist to use while reading cases and preparing for each class session.

## **TEXT**

Dukeminier, Krier, Alexander & Schill, PROPERTY (7TH ED.) (Aspen 2010)

- ISBN: 978-0-7355-8899-8
- This text is available in hardcover book or (cheaper) loose leaf book. Note that the 7<sup>th</sup> Edition is not the most recent edition of the text. While the 7<sup>th</sup> Edition is available new, purchasing a used books at lower cost is encouraged.
- I will supplement the text with postings on TWEN.
- There are many Property Law study books and materials available; while very useful none are required. The recommended supplement for estates is: *Workbook on Estates and Future Interests*, Raymond R. Coletta, Third Edition, ISBN 978-0-314-28686-4. While the Third Edition is the most recent, previous editions are just as helpful and available used at very low cost.

## **LAPTOP & CELL PHONE POLICY**

“There is no escaping from ourselves. The human dilemma is as it has always been, and we solve nothing fundamental by cloaking ourselves in technological glory.” / “In introducing the personal computer to the classroom, we shall be breaking a four-hundred year-old truce between the gregariousness and openness fostered by orality and the introspection and isolation fostered by the printed word . . . Orality stresses group learning, cooperation, and a sense of social responsibility.” -Neil Postman

While I understand the benefits of note taking via laptop, the risks associated with surfing the Internet, Facebooking, Gchat-ing, or taking copious notes while missing the classroom discussion are great and almost every classroom empirical study of laptop usage concludes the use is generally detrimental. Since the importance of classroom discussion is so great in 1L courses, for at least the first semester of Property Law, students will not be allowed to use laptops during Socratic discussions, lectures, or open class discussion. Class notes are expected to be taken by hand with pen/paper.<sup>3</sup>

While I reserve the right to decide spring semester laptop policy, should students feel strongly about laptop usage in the classroom (either in favor or against), on Monday November 2, 2015, students *may* turn in legal memos detailing their wishes for laptop policy in the spring semester. The memos are purely optional, but if submitted must follow these guidelines:

- 12 point Times New Roman font, single spaced
- One page maximum length
- Must follow standard legal memo format
- Must be signed and dated by exactly five students in the class who each took part in drafting and who each agree with the memo in full

Cellphones must always be on vibrate/silent in the classroom and text messaging or phone email usage must be limited to emergencies.

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<sup>3</sup> If you take an upper level law course with me as a 2L or 3L, my policy is always to allow laptops in the classroom.

## **CREDIT HOURS / MEETING TIMES**

This is a three credit hour course that will meet Mondays and Wednesdays from 1:30pm to 2:45pm. If a class is cancelled, a makeup class will be scheduled as soon as possible. Since this class meets on Mondays and Wednesdays, we will have at least two additional out-of-class writing assignments to make up for the class sessions missed due to the Labor Day and Veterans Day holidays.

## **ATTENDANCE**

Regular attendance and consistent preparation and participation are expected and required by the American Bar Association, School of Law, and the professor. Given that important circumstances can always arise (e.g. taking children to a doctor's appointment, job requirements, extended trip home, concert tickets for a good show in Chicago), you are allowed **FOUR** absences.

Attendance will be taken daily. Your signature on the attendance sheet certifies that you are prepared for class—you have read the assigned material, prepared a written case brief if applicable, and are ready to participate in class discussions. If you are unprepared, you may attend class but not sign the attendance sheet. If you are found unprepared through the class discussion, but signed the attendance sheet, you will be deducted two absences. **HOWEVER**, during the Fall Semester, each student will be allowed a **“pass” for one class period** without penalty.

If you collect more than four absences, as indicated by the attendance sheets, you will be withdrawn from the course. Do **NOT** sign the attendance sheet for anyone else.

You are responsible for keeping track of your own absences. If you have a question about your records, you may consult with my faculty assistant, Susan Williams. Ms. Williams maintains my attendance records based upon the signatures on the attendance sheets.

Further points on attendance:

- Late arrivals will be treated as absences—do not sign the attendance sheet if class has already started when you walk in.
- If you have special circumstances that may require you to have an excused absence from class, or an excuse to turn in a written assignment late, please contact the Associate Dean for Academic Affairs, Chris Behan. Dean Behan will then be in contact with me to notify me of any excused absences and how to proceed. Please note that absences may be excused in only **extremely rare** circumstances (not for the normal cold/flu or pre-planned vacations, generally only for hospital treatment emergencies or funerals).

## **CLASS PARTICIPATION**

**On call:** All students will be expected to be prepared to participate in Socratic classroom discussions. Your active participation in class is an important part of the classroom experience and learning process for both you and your classmates. Ideally, you will experience being called on as an opportunity to engage more fully with the material and to practice thinking about legal questions aloud and on your feet. This type of opportunity is imperative to preparation for the practice of law in every legal environment. I therefore encourage you to participate voluntarily in addition to when you are called upon.

**Small groups:** At certain times during class you will also have the opportunity to work with others for short periods of time in small groups. Working in small groups on problems will provide you with the opportunity to develop important analytical and practical legal skills.

## **SEATING**

To assist with calling on students during class discussions and monitoring attendance, beginning with the second class meeting, all students will be required to remain in the same seat during classes throughout the fall semester.

## **GRADING / EXAM**

Just like the Bar Exam, your grade in this class will be based on a closed book / no notes final exam which you may take on your laptop using SIU-approved exam software. The exam will be a mix of multiple choice and essay questions and will be based on materials from the readings and class discussions. I will expect you to demonstrate knowledge of not only the law but also the policies underlying the law. The exams will be anonymously graded, with grades assigned according to the law school's grading policies / curve. To better provide first-year students with insight into the exam process, towards the beginning of the semester, we will spend some time in class reviewing IRAC exam writing format and a sample exam writing and grading session.

Your grade on the final exam may be adjusted upwards or downwards based on the following provisions:

- You will be required to complete multiple ungraded written assignments during the semester. If you fail to complete these assignments, and/or fail to put forth a passing effort on these assignments, your final grade will be decreased by 0.10 (e.g., from a 3.00 to a 2.90).
- You will be required to attend and participate in class (as discussed *supra*). I reserve the right to decrease your final grade by 0.10 (e.g., from a 3.00 to a 2.90) if you are unprepared on multiple occasions or for unprofessional conduct in the classroom such as regular disruptions or being rude to your classmates (*see infra*).
- In extraordinary circumstances, I may raise your final grade by 0.10 (e.g., from 3.00 to 3.10) for regular, thoughtful class participation combined with exemplary attendance.

\*Students should contact Dean Behan to discuss any extensions of time for the final exam, rescheduling the date the exam is administered, or extensions of time related to written assignments.\*

### **DISABILITIES REQUIRING ACCOMODATION**

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

\*Due to the anonymous grading policy, students should not discuss exam accommodations with professors.\*

### **TWEN**

You should begin accessing the “**Property 2015-16 (Holte)**” TWEN website during 1L orientation week (the course password is “RAP”). I will post announcements, updates to the syllabus, reading assignments, writing assignments, PowerPoint class slides, and other materials that you will be responsible for. You should also register with your current email address so you do not miss new materials when they are posted.

### **CLASS RECORDING**

Recording the class is prohibited without my written permission. It is an Honor Code violation to create or distribute such recordings when the instructor has prohibited either action.<sup>4</sup>

### **OFFICE HOURS / COMMUNICATING WITH PROFESSOR**

I have an open door policy for students to drop by my office. If my door happens to be closed, please knock to see if I may be available to meet. Please feel free to stop by whenever you'd like, or email me to make an appointment, as I am in my office regularly during normal business hours on Mondays, Tuesdays, and Wednesdays. My “official” office hours are Mondays and Wednesdays from 3pm to 4:30pm (right after class). I am generally occupied with class preparation immediately before class, so please avoid dropping by my office between noon and 1:30pm Mondays and Wednesdays.

You may also email me questions about the course or material; however, if the answer requires lengthy explanation I will likely suggest that you stop by my office to discuss. **If you email me, please put the words “PROPERTY LAW CLASS” in your subject line.** You should also be aware that I may post a response to any course-related email to the TWEN site if I deem the information to be of general interest to the entire class.

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<sup>4</sup> Honor Code I.E.1.g

## **TEACHING ASSISTANTS**

We are privileged to have two upper-level students serve as teaching assistants for the duration of the semester. My Property I TAs are:

- Phoenix Mason, pmason@siu.edu (office hours—Tuesdays, 3-4:30pm)
- Elliot Stratton, ecstratt@siu.edu (office hours—Thursdays, 4:30-5:30pm)

As the semester begins, the TAs will communicate via TWEN regarding weekly office hours, locations within the law school to meet them, and general availability outside office hours. Given that they are also busy law students, they will have limited availability for individual meetings outside scheduled office hours. The TAs will have primary responsibility to read your writing assignments and provide both written and oral feedback. Your writing assignments will be returned via your law school mailbox, but please take the opportunity to email or meet the TAs for both administrative and substantive questions regarding assignments and course material. **If you email the TA's, please put the words "PROPERTY LAW CLASS" in your subject line.**

## **LETTERS OF RECOMMENDATION**

Many legal jobs, or other legal positions (internships, externships, etc.), have applications requiring letters of recommendation from law professors. When considering which of your professors to request a letter from, you should consider how much direct interaction you have had with the professor, including classroom discussions, office hour meetings, and non-class law school activities that may reflect your individual interests (e.g. law school clubs devoted to a special interest).

Since this is a first-year course, and since building material to discuss in a recommendation letter takes time, I will not be able to write letters of recommendation for any 1Ls until the spring semester (at the earliest). Ideally, any recommendation request should be after both semesters of Property Law, and perhaps after attendance in an upper level course with me as well.

Should you need a letter of recommendation, please email me at least four weeks before the letter is needed. Please include a copy of your résumé, all detail regarding what the letter is for, a list of all classes you have taken from me, and the grade you received in each class.

## **PROFESSIONALISM**

Since law students are lawyers in training, and since a large part of the law school classroom time is to prepare students for how to interact in a professional legal environment, there will be certain expectations for professionalism in the classroom. I will address all students as Mr. or Ms. (name), and the professor will be addressed as “Professor Holte.” In class, students should address each other as Mr. or Ms. (name) and, during lecture time, should act as if they were within a courtroom (no eating, no phone usage, no talking amongst each other, etc.). Drinks in closed containers are allowed in the classroom and I do not expect students to dress as if they were in court (but please dress appropriately). With the exception of medical or religious necessity, hats are not allowed to be worn in class. As discussed *supra*, I reserve the right to decrease your final grade by 0.10 for unprofessional conduct in the classroom.

Since social media is such a large part of our professional culture, it is worth noting that I look forward to adding all students as social media contacts or “friends” once students transition from “students” to “legal colleagues” (after graduation). Until graduation please do not try to add me on LinkedIn, Facebook, etc.

## **EMERGENCY PROCEDURES**

Emergency Procedures. Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety's website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

## **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, 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 students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.



## READING ASSIGNMENTS

- Further class assignments will be distributed throughout the semester as the course progresses.
- Property I will cover portions of pages 1-515 of the text.
- We may move through some material more quickly or slowly. I will announce at the end of each class what should be prepared for the next class period **if** it diverges from the listed assignment. Should the class discussion not include a case from the assigned reading, students should review their notes for the previous day's reading prior to the next class session.
- Writing assignment due dates will never change.
- You are responsible for all the material assigned including case notes, comments, and questions that follow the principle cases in the book.
- All assigned material, even if we do not cover it in class, is fair game for the final examination.
- All written assignments should be submitted (in printed hardcopy), in class, on the due date listed.
- No case citations are necessary for written assignments unless explicitly required within the assignment.
- All written assignments should include the following at the top of the first page: your name, the date the assignment is due, and the title of the assignment. All written assignments should be double spaced, have 1" margins, 12 point Times New Roman font, be printed on white paper, and have all pages stapled together. Failure to follow any of the formatting requirements will result in a re-do.

CLASS	READING AND WRITING ASSIGNMENTS
1. Monday, 24 August	Reading—DKAS xxxi, 1-18 Reading—TWEN: Syllabus; Prof. Kerr, <i>How to Read a Court Opinion</i> ; Prof. Kochan, <i>Thinking in Lawyering</i> ; Real Property MBE Subject Outline
2. Wednesday, 26 August	Reading—DKAS 1-18
3. Monday, 31 August	Reading—DKAS 18-39  Assignment—TWEN: First Writing Assignment, IRAC Capture (assignment to be turned in at beginning of class on 9/9; 4 pages recommended length)
4. Wednesday, 2 September	Reading—DKAS 70-88

5. Wednesday, 9 September	Reading—DKAS 39-55, 88-96  Assignment—submit First Writing Assignment
6. Monday, 14 September	Reading—DKAS 97-101, 107-135
7. Wednesday, 16 September	Reading—DKAS 136-163*  *There's a lot going on in the <i>O'Keefe</i> case (151-158); pay attention only to the court's discussion of the discovery rule and adverse possession of chattels on pages 155-158  Begin assignment return—Graded First Writing Assignments will be returned to your mailbox. If First Writing Assignment re-do is required, due date is 9/23. Please turn the re-do into the mailbox of the TA that graded your assignment initially.  New Assignment—TWEN: Second Writing Assignment, Finders Law Balancing of Factors (assignment to be turned in at the beginning of class on 9/23; 5 pages recommended length)
8. Monday, 21 September	Reading—DKAS 164-167, 173-174 (Notes)
9. Wednesday, 23 September	Begin the System of Estates: Reading—DKAS 183-201—Please skim the historical exegesis on the origins of the estate system (185-191) for informational purposes only. <b>Also, please make sure to do all problems in the reading throughout the System of Estates sections.</b>  Assignment—submit Second Writing Assignment
	Further assignments to be distributed in late September via TWEN