

**WESTERN STATE COLLEGE OF LAW
COURSE SYLLABUS, POLICIES, AND ASSIGNMENTS
2020 SPRING SEMESTER
PROPERTY I
SECTION 151A
PROFESSOR SHEPPARD**

CLASS MATERIALS:

REQUIRED TEXT: John G. Sprankling and Raymond R. Coletta, **Property, A Contemporary Approach, Fourth Edition** (2018 West Academic Publishing Interactive Casebook Series)

REQUIRED SUPPLEMENTS: Professor's Course Supplements posted to the Web Course

THE INTERACTIVE COURSE TEXT:

Features of the required course text include Internet access to visual information and audio files relevant to various course topics, and Westlaw search terms that enable you to find state law regarding certain course topics. You are also able to access online chapter quizzes and answers and explanations regarding the problems that comprise those quizzes. I urge you to access those quizzes and the answers to the questions at appropriate intervals.

Note with care that you are able to obtain a license to access the online information provided by or organized by the authors for your edification by using the "KeyCode" that appears on the face page of the text you acquired. If you have acquired a used text, you will have to pay a separate fee to West Publishing to obtain a license to access the eBook version of the course text. You may be able to acquire a license to use the online version of the text without having to obtain a hard copy of the text if you prefer to do so.

I expect that you will study page ix of the text, "*Features of This Casebook*," with care.

I recommend that you refer to those portions of the Sprankling workbook noted in the Reading Assignments segment of this document. That workbook is comprised of summaries of principles of law studied in this course and simulation exercises. Although Professor Sprankling has devised the simulations with the idea in mind of providing opportunities to students to develop and hone negotiation and advocacy skills, I urge you to access information in that text notwithstanding that we will not be able to devote class time to engage in the simulations suggested by Professor Sprankling. You will also benefit from a critical reading of the sample letters, pleadings, and other documents, set forth in that text.

SKILLS AND VALUES

A task force report exists that is commonly referred to as "The McCrate Report." The authors of that report examined the legal skills and values listed above as well as other skills and values. [Section on Legal Education & Admissions to the Bar, American Bar Association Legal Education and Professional Development – An Educational Continuum (Report of the Task Force on Law Schools and the Profession:

Narrowing the Gap, 1992). A collection of law review articles that represent supporting and critical views of “The McCrate Report” appear in Volume 69 of the *Washington Law Review* published in July of 1994.]

On page 1 of his “Property Law Simulations” text, Professor Sprankling notes: “The McCrate Report had little impact on legal education. But the Carnegie report has been more successful, prompting many law schools to make curricular changes that expand opportunities for experiential learning.” Actually, Western State was one of the few law schools that took special note of the McCrate Report prior to the publication of the Carnegie report as evidenced by its Mission Statement, course offerings, and methods of instruction.

WESTERN STATE COLLEGE OF LAW – PROGRAMMATIC LEARNING OUTCOMES

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Associations, Evidence, Civil Procedure, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternative dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities and differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author's or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' backgrounds and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those

needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

COURSE COVERAGE AND OPPORTUNITIES:

Property I is the first semester of the year-long basic course regarding various aspects of American property law. We will focus on the following topics during this semester: (1) the concept of property including the “bundle of rights theory” of property; (2) the estates system of ownership rights in real property; (3) forms of concurrent ownership of interests in property; (4) servitudes (i.e., burdens on interests in real property known as licenses, profits, easements, and land use covenants); (5) an introduction to the law of zoning; (6) an introduction to the law of eminent domain; and (7) an introduction to the law of regulatory takings.

During the second semester, Property II, our attention will be focused on: (1) leasing real property and landlord/tenant law; (2) methods of acquiring ownership of property including by find, gift, adverse possession, and purchase which will include introductory material regarding various aspects of residential real estate sale transactions (the purchase contract, deeds, mortgages, deeds of trusts, installment land sale contracts, and various forms of title assurance including contract warranties, deed warranties, recording acts, and title insurance).

COURSE METHODOLOGY

I utilize a combination of classroom methods to assist you in your effort to achieve the objectives of this course, including use of the Socratic method of interaction to enable you to properly gauge the current level of your working knowledge of course subject matter, use of the case method of exploring and examining legal principles and methods of application of those principles (including, but not limited to, how to deconstruct case law, statutory law, and other sources of law).

It will be incumbent upon you to engage in an appropriate study and review of each course assignment before we engage in classroom discussions about the course material that is part of that assignment. The primary focus of our classroom discussions will be the manner in which you should use the course material to raise and resolve issues that can arise in either a dispute resolution setting or a transactional or other non-dispute resolution setting. To engage in an appropriate study of course material, at a minimum, you must complete a critical reading of that material; and you must brief each principal case included in the course text, each case cited in a text note, and any case which I might assign as additional reading. You should also read additional reference material (e.g., relevant portions of a hornbook or treatise). Your study habits must also include you engaging in activities that will hone your skills of legal analysis and exam taking and writing. I will also expect you to have prepared appropriate work product regarding text problems that are part of the assigned reading as well as having engaged in the preparation of appropriate work product regarding the simulations

materials that I recommend that you study. I expect you to compare your work product with comments that I post to the Assignments Section of the web course regarding a text problem or simulation material. Adhere to the IRAC method of legal analysis to the extent necessary during classroom discussions, when engaged in problem solving exercises, during quizzes, and during the course final exam.

EXPECTATION OF YOUR AMOUNT OF OUTSIDE PREPARATION TIME

I expect you to devote a MINIMUM of nine hours a week to prepare for each three hours of class time.

LEXIS CLASSROOM WEB COURSE

You will be able to enroll in the course Lexis Classroom platform on and after 9:00 a.m., Monday, January 13, 2020. The last day to access the web course material is Sunday, May 31, 2020. To enroll in the web course:

1. Log into LexisNexis for Law School at <https://www.lexisnexis.com/lawschool/>.
2. In the **Student** view, click the **Add A Course** link found on the right-hand side of the page.
3. Locate my name (Sheppard); then click my name.
4. Locate **Select Course to Enroll**; locate Property I – property_law_101649 and click.
5. Follow the instructions to enroll in the Property I Lexis Classroom
6. If you are directed to enter a password, enter: BRMR3P

If you encounter a problem while attempting to enroll in the web course, please contact a LexisNexis representative, or Faculty/Academic Support person Julie Kohler (714-459-1128), or Library Director Sarah Eggleston (714-459-1110).

EXAMINATION AND GRADING:

There will not be a midterm exam in this course.

There will be one on-campus, graded, closed book/closed notes course examination. That exam will be the course final exam. You will not be allowed to use books, notes, or other reference material during the final exam. The final exam will be a three-hour exam.

General examination procedures are noted in the current edition of the *Student Handbook*. Additional procedures and instructions that pertain to the exam to be administered in this course will be included as part of each final exam packet. Some of my prior Property I final exams are posted to Course Documents section of the Modules segment of the LexisNexis classroom platform. For reasons noted in the memorandum that is also posted to the web course regarding changes in course coverage that were made when the basic one-year Property course was changed from a six-unit course to a five-unit course. I am in the habit of posting the exam instructions that will be included in the final exam packet about two weeks prior to the last day of instruction. That will allow ample time for you to become familiar with those instructions and procedures prior to the date upon which the final exam will be administered. If you fail to comply with any of those instructions or procedures, you will be subject to academic penalties, or administrative penalties, or both.

I also expect you to adhere to the essay answer criteria also posted to the Course Documents segment of the Modules Segment of the web course.

FINAL EXAM FORMAT:

As noted in the preceding segment of this document, a three-hour final exam will be administered as part of this course. Information about the format of the final exam will be provided to you prior to the last day of class. Please also read that portion of the current edition of the *Student Handbook* regarding the “Grading System and Student Honors.”

CALCULATION OF COURSE GRADE:

Course grades will be recorded using a numeric grade system on a scale of 0.0 to 4.0. Please note with care that I do not grade on a curve. The grade you earn in this course will be based solely on your individual level of performance in the course. Consequently, the level of performance of another member of the class will not affect the manner in which your course grade will be calculated.

To earn a numeric grade of 4.0, you must accumulate at least 90 course grade points. A total of 89 course grade points results in a numeric grade of 3.9; 88 course grade points results in a numeric grade of 3.8; and so forth.

“EXTRA CREDIT” COURSE QUIZZES

I will administer at least three “pop” quizzes during the semester. Each quiz will be worth 100 points. If your average score on the course quizzes is 70 to 74, you will have earned one extra-credit course grade point. If your average score on the course quizzes is 75 to 79, you will have earned one and one-half extra-credit course grade points. If your average score on the course quizzes is 80 to 84, you will have earned two extra-credit course grade points. If your average score on the course quizzes is 85 to 89, you will have earned two and one-half extra-credit course grade points. If your average score on the course quizzes is 90 to 94, you will have earned three extra-credit course grade points. If your average score on the course quizzes is 95 – 100, you will have earned four extra-credit course grade points. If your average score on the course quizzes is 69 or less, you will not have earned any extra-credit grade points.

If you earn one extra-credit grade point, or more than one extra-credit grade points, your extra-credit grade point or points will be added to your final exam grade points and the total thereof will determine your numeric course grade.

You will be required to enter your semester student exam number in the space provided therefor on the first page of a quiz packet. In the event you are not able to access your student exam number for insertion on a quiz packet, enter a “bogus number” on the quiz packet. After the conclusion of the class session during which the quiz was administered, notify one of the Faculty Assistants that you used a “bogus number” on a course quiz. Communicate the bogus number you used to the Faculty Assistant and also communicate your student exam number to the Assistant. The Assistant will communicate that information to me without disclosing your identity to me.

I will send you answers to and comments regarding each quiz problem after I have scored the quiz packets. You should study that information with care.

PRACTICE WRITING EXERCISES:

I strongly urge you to include exam writing, or exam taking, *exercises* as part of your daily study habits beginning in the second week of the semester and continuing throughout the semester and during the interim between the last day of class and the administration of the final exam. The time devoted to any such *exercise* can range from about 10 to 20 minutes.

I am willing to critique practice issue spotting exercises and practice issue statements, or reviewing outlines of answers to practice problems (e.g., a text problem), or practice answers using the IRAC method of legal analysis of a practice problem (e.g., a text problem), or some portion of a practice problem, during the semester. **It behooves you** to study the supplements I have posted to the web course regarding study habits, exam prep, and methods to analyze multiple-choice problems and essay problems. If you wait until close to the end of the semester to submit any such work product to me for review and comment, you will run the risk that I will not have sufficient time to provide feedback to you before the final exam is administered. I do **not** critique student course outlines.

OFFICE HOURS, OFFICE TELEPHONE, E-MAIL ADDRESS, FACULTY FAX NUMBER:

I encourage you to communicate with me regularly. If you are not able to meet with me during my office hours, please do not hesitate to communicate with me via e-mail. If it becomes necessary to do so, you may request that we meet at a time other than my posted office hours.

I plan to maintain the following office hours **beginning** Tuesday, January 21, 2020, and **ending** Tuesday, May 5, 2020:

Tuesdays: 10:00 a.m. until 1:00 p.m.
(Except 2/18/2020, and 3/17/2020)

Wednesdays: 1:00 p.m. until 4:00 p.m.
(Except 3/18/2020)

Thursdays: 12:30 p.m. until 2:30 p.m.
(Except 3/19/2019)

Use the “Faculty Appointments Book” to reserve time to meet with me during my office hours. You must reserve time to meet with me during office hours at least 24 hours prior to the time you wish to meet with me. You may reserve a maximum of two consecutive blocks of time (i.e., one-half hour) per office appointment. **Appointments for a set of two or more students at a time are encouraged.**

I will not have office hours during the semester break (Monday, March 16 through Sunday, March 22).

If your schedule of classes or your work schedule will not permit you to meet with me during my posted office hours, **send me an email** to request to meet with me so that we may agree upon at a time and day that will be convenient for both of us.

You may contact me via e-mail by addressing your communication to csheppard@wsulaw.edu.

You may contact me via telephone by calling (714) 459-1152. The faculty fax number is (714) 525-2786. If you send a fax to me, be sure to include an appropriate cover sheet.

MANDATORY ATTENDANCE, CLASS PARTICIPATION, DECORUM, AND SEATING

Attendance in class is mandatory. If you are absent from more than six hours of class sessions, you will be subject to being administratively withdrawn from the course. If you have not already done so, you should study the appropriate portions of the current edition of the *Student Handbook* regarding the College of Law's attendance policy.

Due to possible differences in the manner in which course materials are covered different sections of a course, you are **not** permitted to "make-up" a missed class by attending another section of this course regardless of whether the other section is taught by another professor or by me.

To be successful in law school, you must be an active learner. You will gain maximum benefit from class attendance only if you are prepared for class. Proper preparation for a class session by you will include, but not be limited to: engaging in effective time management; engaging in a critical reading and re-reading of assigned course material; briefing cases; critically reading and re-reading text notes and footnotes; analyzing problems included as part of assigned reading; critically reading court opinions of cases cited as part of text notes or Points for Discussion; reviewing and editing your notes you have taken regarding prior class sessions; reading, and re-reading if necessary, course computer slides posted to the web course; personally preparing and reviewing study aids (e.g., sections of your personally prepared course outline, flash cards, and/or flow charts or diagrams); reading and re-reading to the extent necessary appropriate segments of hornbooks, treatises, workbooks or other study aids; engaging in exam prep or exam taking exercises; and preparing questions that you want addressed during an ensuing class session.

I call your attention to the following law review article: Laurel Currie Oates, *Beating The Odds: Reading Strategies of Law Students Admitted Through Alternative Admissions Program*, 83 IOWA L. REV. 139 (1997). Portions of that law review article illustrate how a student might "outperform" his or her first-year "law school predictors" (e.g., undergrad grade point average and LSAT score) by being an active learner and not a passive learner. That is an important message regardless of whether a person was admitted to law school through a regular admissions process, as you were, or an alternative admissions program (e.g., an admission by performance program).

You should be prepared to participate in class on a regularly. You should be an active listener in class at all times when you are not speaking in class. Being an active listener includes assessing whether you understand, or you do not understand, comments being made by me, or by one of your classmates. If you conclude that you do not understand my comments or the comments of a classmate and you have a question in that regard, you should raise your hand to be recognized. Upon being recognized by me, you should voice your question. If you understand my comments or the comments of a classmate, you should assess whether you agree or disagree with those comments. More importantly, you should assess the reason or reasons for you agreeing or disagreeing with those comments. Do not hesitate to seek recognition to voice your questions or comments along those lines as well.

I expect you to maintain proper decorum when entering the classroom, while attending and participating in each class session, and when departing the classroom. You are also required to adhere

to the College of Law's "Principles of Community" and the College of Law's "Honor Code" and other conduct policies noted in the current edition of the *Student Planner & Handbook*.

A seating chart will be circulated during the initial class session.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities Services Office** assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is located in the Student Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved classroom accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

READING ASSIGNMENTS:

I encourage you to complete your initial study of each set of assignments prior to the week during which we are scheduled to address that material. Be sure to note whether the reading assignment includes the study of supplemental material.

Complete all reading as assigned. If the class "falls behind" in the assessment of a particular aspect of the course, do not "fall behind" in your study of assigned course material. You do not want to be "left in the dust" when the class "catches up" to assignments as scheduled.

Do not lull yourself into a false sense of preparedness by only reading the content of the assigned text pages and course supplements. I expect you to:

- **Look up the definitions of words and phrases that are not familiar to you.**
- **Brief cases; if the edited opinion included in the book is confusing to you, read the unedited opinion**
- **Read cases, statutes, or other sources of law cited in a text "Point for Discussion"**
- **Use eBook features to access supplemental information provided by the authors of the text.**

- Analyze each problem that is part of a reading assignment and compare your analysis with the comments regarding each problem posted to the Assignments section of the web course.
- Write or type questions that you want me to address during an ensuing class session.
- Copies of the “computer panels” I plan to display during a class session are posted to the Course Documents section of the web course for you to access and read

Week	Tuesdays	Course Topics	Text Pages	Supplements
01	01-21-2020	The Concept of Property: Property Defined; Property Theories or Images; Right to Transfer	v – viii; 95 – 96; 1 – 8; 25 – 49	Gen. Info. 1 – 6; Concept 1 – 3
02	01-28-2020	Right to Exclude; Right to Use; Right to Destroy	49 – 94	Concept 4
03	02-04-2020	Possessory Estates: Fee Simple, Fee Tails, Life Estates, and Leaseholds; Future Interests Retained by a Transferor: (1) Reversion; (2) Possibility of Reverter; or (3) Right of Entry (a.k.a., Power of Termination); Reversion; Possibility of Reverter; Future Interests Retained by a Transferee: (a) Remainder; or (b) Executory Interest;	303 – 356	Estates, etc. 1-10
04	02-11-2020	Rules “Furthering Marketability:” Rule in Shelley’s Case; Doctrine of Worthier Title; Destructibility of Contingent Remainders; Rule against Perpetuities	356 – 375	Estates, etc. 11, 12
05	02-18-2020	“LEGISLATIVE DAY” – MONDAY CLASSES MEET ON THIS DAY	XXXXXXXXXXXX XXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX
06	02-25-2020	Forms of Non-Marital Concurrent Ownership: Tenancy-in-Common; Joint Tenancy; Severance of Joint Tenancy; Partition; Cotenant Rights and Duties; Property Rights of a Spouse: (1) Separate Property; (2) Community Property; (3) Tenancy-by-the-Entirety	377 – 412	Concurrent Ownership 1 – 4
07	03-03-2020	Servitudes: Express Easements; Easements implied by prior use; easements implied by necessity; easements by prescription; easements by estoppel; interpreting easements (determining the scope of rights and burdens re an easement); terminating easements	683 – 734	Easements 1 – 6
08	03-10-2020	Negative Easements; Private Land Use Restrictions: (a) Real Covenants; (b) Equitable Servitudes	734 – 751**	Easements 7 – 9 Covenants 1 – 4

09	03-17-2020	Equitable Servitudes; Common Interest Developments; Defenses against Enforcement; Methods of Termination	751 – 787	Covenants 1 – 9
10	03-24-2020	SEMESTER BREAK – NO CLASS SESSION		
11	03-31-2020	Nuisance	787 - 795	
12	04-07-2020	Land Use Regulation: Zoning – Constitutionality; Typical Zoning Ordinance; Nonconforming Uses; Zoning Amendments; Variances; Conditional Uses	805 – 842	Zoning 1 - 2
13	04-14-2020	Land Use Regulation: Aesthetic Regulation; “Family Zoning”; Growth Controls and Exclusion	842 – 871	Zoning 1 - 2
14	04-21-2020	Eminent Domain Regulatory Takings	919 – 941 943 – 956	 Regulatory Takings 1 - 4
15	04-28-2020	Regulatory Takings	956 – 982	Regulatory Takings 1 – 4
16	05-05-2020	Regulatory Takings	982 – 1001	<i>Surfrider Foundation v. Martina Beach 1, LLC</i> , 14 Cal.App.5 th 238 (2017, 1 st Dist.)

**** See my law review article re land use covenants at 37 Western State University Law Review 27 (Summer 2009)**