

Syllabus

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Learning and Reading Assignments

In the following pages, you will find both Learning Assignments for each class session and weekly Reading Assignments. The Learning Assignments include assigned homework, such as additional on-line quizzes and writing assignments.

Following the Learning Assignments you will find the Reading Assignments that correspond to each week.

The required text for the course is **Singer, et al., Property Law: Rules, Policies, and Practices (7th ed.)**.

Please Note: The publisher of this casebook has recently released an 8th edition. Please do NOT obtain the 8th edition, as **all assignments will be to the 7th edition**.

All page references are to the Singer text. Assignments labeled **Handout** will be available on the course website. Please see details about the course website at Course Requirements.

Please prepare all pages listed in the assignment. Principle cases with starting page numbers in parentheses are noted for useful reference. Assume any Problems that fall within the assigned pages are to be studied for discussion purposes, unless instructed otherwise.

Proper preparation for class includes reading the material carefully (which means re-reading when necessary and looking up unfamiliar terms or phrases), fully briefing all principle cases, and reviewing the material shortly before class so that it is fresh in your mind. Proper preparation also continues during the class session, and means that you engage with all exercises and pay full attention, so that you can respond to questions about material covered during the class.

In the first class, we will also review the important elements of a brief for this course. Please note that your first assignment includes a handout entitled Briefing Guide, which you should review carefully.

In addition to the assigned reading, and the exercises described above, there will also be occasional quizzes and a midterm and final examination (please see Course Requirements at p. 6 of this syllabus for more information about these course components).

The reading and preparation, the live class sessions, and the assigned at-home work combine to form the equivalent of three (3) hours of classroom time plus six (6) hours of outside work, on average, for each week of the semester.

Learning Assignments

This Learning Assignments table should be reviewed in conjunction with the Reading Assignments table on p. 5-6 of this syllabus. More information about upcoming assignments will be provided in class. You may also always consult the last slide of each session's posted PowerPoint for upcoming assignments. Tasks in addition to those listed here may be assigned in the PowerPoint as part of each week's preparation.

All quizzes can be found on TWEN under Assignments. All written exercises should be uploaded by the due date to the appropriate assignment on TWEN.

In addition to those assignments listed below, for each class session you should complete the following tasks:

- Prior to class:
 - Complete all assigned reading (see Reading Assignments)
 - Download the In-Class Worksheet for that class session (available on TWEN at 6 p.m. the evening before class)
- After class:
 - Upload the completed In-Class Worksheet to the appropriate assignment on TWEN (due 15 minutes after class ends).

WEEK	Monday Assignments	Wednesday Assignments
1	<u>January 17</u> NO CLASS: Martin Luther King Jr. Day	<u>January 19</u> Prior to Class <ul style="list-style-type: none">➤ Complete Holdings for <i>Jacques</i> and <i>Shack</i>, using Broad and Narrow Holdings Template; have available for use in class
2	<u>January 24</u> No additional assignments...	<u>January 26</u> After Class <ul style="list-style-type: none">➤ Complete Possessory Estate Worksheet: upload due by 5 p.m. Friday➤ Complete Possessory Estate Quiz: due by 5 p.m. Friday

WEEK	Monday Assignments	Wednesday Assignments
3	<u>January 31</u> No additional assignments...	<u>February 2</u> After Class: <ul style="list-style-type: none"> ➤ Complete Future Interests Worksheet upload due by 5 p.m. Friday ➤ Complete Future Interests Quiz: due by 5 p.m. Friday
4	<u>February 7</u> No additional assignments...	<u>February 9</u> After Class: <ul style="list-style-type: none"> ➤ Complete Memorization Quiz: due by 5 p.m. Friday
5	<u>February 14</u> <div style="text-align: center;">“I ❤️ Rule Against Perpetuities Day”</div> No additional assignments...	<u>February 16</u> After Class: <ul style="list-style-type: none"> ➤ Complete RAP Worksheet upload due by 5 p.m. Friday
6	<u>February 21</u> No additional assignments...	<u>February 23</u> After Class: <ul style="list-style-type: none"> ➤ Upload completed Week 6R In-Class Worksheet ➤ Complete RAP Quiz: due by 5 p.m. Friday
7	<u>February 28</u> No additional assignments...	<u>March 2</u> Prior to Class: <ul style="list-style-type: none"> ➤ After completing week’s reading, view Short Documentary (link in Week 7 handouts folder) After Class: <p>Complete Legal Ethics in Property Law assignment: upload due by 5 p.m. Friday</p>
8	<u>March 7</u> Prior to Class: <ul style="list-style-type: none"> ➤ In addition to assigned reading, complete practice midterm exercises as assigned in class. 	<u>March 9</u> Prior to Class: <ul style="list-style-type: none"> ➤ In addition to assigned reading, complete practice midterm exercises as assigned in class.

Week of March 14: Spring Break (No Class)

WEEK	Monday Assignments	Wednesday Assignments
9	<u>March 21</u> MIDTERM	<u>March 23</u> No additional assignments...
10	<u>March 28</u> Prior to Class: <ul style="list-style-type: none"> ➤ Complete narrow holding for <i>Green v. Lupo</i>; have available for use in class. 	<u>March 30</u> Prior to Class: <ul style="list-style-type: none"> ➤ Complete broad and narrow holdings for <i>Holbrook</i>; have available for use in class. After Class: <ul style="list-style-type: none"> ➤ Complete Applying/Distinguishing exercise: upload due by 5 p.m. Friday
11	<u>April 4</u> No additional assignments...	<u>April 6</u> After Class: <ul style="list-style-type: none"> ➤ Complete Easements Quiz: due by 5 p.m. Friday
12	<u>April 11</u> No additional assignments...	<u>April 13</u> After Class <ul style="list-style-type: none"> ➤ Complete Policy Question exercise upload due by 5 p.m. Friday
13	<u>April 18</u> No additional assignments...	<u>April 20</u> After Class <ul style="list-style-type: none"> ➤ Complete Covenants and Equitable Servitudes worksheet upload due by 5 p.m. Friday
14	<u>April 25</u> No additional assignments...	<u>April 27</u> After Class <ul style="list-style-type: none"> ➤ Complete Covenants and Equitable Servitudes Quiz: due by 5 p.m. Friday
Final Class	<u>May 2, 2021</u> Prior to Class <ul style="list-style-type: none"> ➤ Follow instruction from previous class regarding practice exam preparation, and organization of study materials. 	

Reading Assignments

The required text for the course is **Singer, et al., Property Law: Rules, Policies, and Practices (7th ed.)**. All page references are to this text. Assignments labeled “Handout” will be distributed ahead of time on the course website. Principle cases with starting page numbers (or “h” to indicate the Handout) are noted for your reference. You are responsible for all material within the listed pages of the week’s assignment.

WEEK	TOPICS	ASSIGNMENT	CASES
1	Understanding Property Rights in the Anglo-American Legal System Right to Exclude (Trespass)	“A Guide to the Book,” pp. xxxiii (start at bottom: “What is Property”) – xlii (stop before “Normative Approaches.”) Week 1 Handouts: <ul style="list-style-type: none"> ▪ Ancient Hawaiian Land Use ▪ Briefing Guide 3-4 (top) 38 (bottom)- 42 (top) 4-9	<i>Jacque v. Steenberg Homes</i> (38) <i>State v. Shack</i> (4)
2	Introduction to Possessory Estates and Future Interests Possessory Estates	739-744 (middle) 747 (bottom) - 752 (through “A”) 756-758 Case Handout: Week 2 758-763	<i>Wood v. Board of Cty. Cmm’rs.</i> (756) <i>Mahrenholz v. County Board</i> (h) <i>Edwards v. Bradley</i> (758)
3	Doctrine of Waste Future Interests	763-768 (top; through n. 3) 752 (bottom)-754 (top, n.B) 755 (table and problems)	<i>McIntyre v. Scarbrough</i> (764)
4	Rules Furthering Marketability: <ul style="list-style-type: none"> ▪ Rule Against Restraints on Alienation ▪ Rule in Shelley’s Case ▪ Doctrine of Worthier Title ▪ Destructibility of Contingent Remainders ▪ Rule Against Perpetuities (intro) 	638 (bottom; 5.4) - 640 744 (middle)- 745 (middle) 754	<i>Northwest Real Estate v. Serio</i> (638)
5	The Rule Against Perpetuities	783-790	

WEEK	TOPICS	ASSIGNMENT	CASES
6	The Rule Against Perpetuities, continued Restraints on Marriage	791-805 Case Handout: Week 6 806-811	<i>Symphony Space v. Pergola</i> (797) <i>St. Regis Paper Co. v. Brown (h)</i> <i>Estate of Guidotti</i> (806)
7	Concurrent Interests	665-684 691-697 (top) + short on-line documentary (see Week 7 handouts for link)	<i>Olivas v. Olivas</i> (673) <i>Carr v. Deking</i> (678) <i>Tenhet v. Boswell</i> (679) <i>Ark Land Co. v. Harper</i> (691)
8	Marital Property Midterm Review	697-700 684-690	<i>Sawada v. Endo</i> (684)
SPRING BREAK: WEEK OF MARCH 14			
9	<u>Midterm: Monday</u> <u>Wednesday:</u> Introduction to Neighbors in Conflict Water Rights	Week 9 Handouts: ▪ Broad and Narrow Holdings: User's Guide ▪ Policy Rationale Table 392-403	<i>Armstrong v. Francis</i> (392)
10	Easements ▪ Appurtenant vs. In Gross ▪ Scope of Easements Easements that arise without explicit grant: ▪ By Estoppel	513-537 Case Handout: Week 10 537-547	<i>Green v. Lupo</i> (520) <i>Cox v. Glenbrook</i> (524) <i>Henley v. Continental Cablevision</i> (529) <i>Holbrook v. Taylor (h)</i> <i>Lobato v. Taylor</i> (537)
11	Easements that arise without explicit grant: ▪ By Implication (Prior Use) ▪ By Necessity ▪ By Prescription Other Easement Issues: ▪ Public Easement ▪ Termination	547-559 72-82 (top) Case Handout: Week 11	<i>Granite Properties v. Mann</i> (547) <i>Finn v. Williams</i> (554) <i>Matthews v. Bayhead</i> (72) <i>Preseault v. U.S. (h)</i>

WEEK	TOPICS	ASSIGNMENT	CASES
12	Negative Easements Covenants and Equitable Servitudes: Basic Rules	370-380 559-573	<i>Fontainebleau Hotel v. 4525, Inc.</i> (370) <i>Prah v. Maretti</i> (373) <i>Neponsit Prop. Owners' Assoc. v. Emigrant</i> (563)
13	Covenants and Equitable Servitudes: <ul style="list-style-type: none"> Racially restrictive covenants Termination 	573 (bottom; Problems) - 577 626-638 650-657	<i>Shelley v. Kraemer</i> (626) <i>El Di v. Bethany Beach</i> (650)
14	Common Interest Communities	579 (bottom)-591 (top) 607 (bottom)-613 617-620 (top) 632-625	<i>Evans v. Pollock</i> (581) <i>Nahrstedt v. Lakeside Village Condominiums</i> (607) <i>O'Buck v. Cottonwood Village</i> (617)

Course Learning Objectives

The learning objectives for Torts II include both mastery of skills and doctrinal knowledge. Below you will find a list of key skills that will be practiced and developed, and an outline of the areas of doctrinal coverage. Basic mastery of these skills and a complete understanding of these doctrinal areas is necessary to earn a grade consistent with good standing.

Skills:

- **Issue Spotting:** You will be able to identify the appropriate legal question arising out of a fact pattern.
- **Rule Statement:** You will be able to state an accurate paraphrase of applicable rules, including appropriate legal terms of art.
- **Holdings:** You will be able to develop broad and narrow holdings for all cases.
- **Rule Interpretation and Application:** You will be able to interpret and apply a rule to a hypothetical set of facts, recognizing the different approaches required by different types of rules.
- **Case Synthesis and Application:** You will be able to apply and distinguish cases in relation to a hypothetical set of facts, with appropriate explanation of significance—i.e., the relevance of the similarities and differences to the outcome of the dispute.
- **Making Policy-Based Arguments.** You will be able to identify the public policies of a precedent case or rule, to explain the policy implications of a legal controversy, and to use those policies in support of arguments for particular outcomes of the legal controversies.
- **Legal Ethics.** You will be able to identify ethical issues arising in certain Property Law practice contexts and make appropriate decisions to resolve such issues.

Doctrinal Coverage:

- I. Introduction to Property Rights: Right to Exclude
- II. The System of Estates
 - A. Possessory Estates
 1. Fee Simple Absolute
 2. Life Estate
 3. Defeasible Estates

- B. Future Interests
 - 1. Reversion/Remainders
 - a. Vested remainders
 - b. Contingent remainders
 - c. Vested remainders subject to divestment (complete/partial)
 - 2. Possibility of Reverter/ Right of Entry
 - 3. Executory Interests
- C. Rules Furthering Marketability
 - 1. Rule Against Restraints on Alienation
 - 2. Rule in Shelley's Case
 - 3. Doctrine of Worthier Title
 - 4. Destructibility of Contingent Remainders
- D. Rule Against Perpetuities
- E. Restraints on Marriage
- F. Concurrent Interests/Marital Property

III. Private Land Use Restrictions

- A. Introduction: Water Rights
- B. Easements
 - 1. Scope of Easements
 - 2. Types of Unwritten Easements:
 - a. Express
 - b. By Implication
 - c. By Estoppel
 - d. By Prescription
 - 3. Termination of Easements
 - 4. Negative Easements
- C. Covenants and Equitable Servitudes
 - 1. Basic Rules
 - 2. Racially Restrictive Covenants
 - 3. Termination of Covenants
- D. Common Interest Developments

Course Requirements and Other Details

1. Attendance is mandatory.
 - During all class sessions, **you are required to complete an In-Class Worksheet** and upload it immediately after class; failure to complete and upload that Worksheet promptly will prevent you from receiving credit for attendance for that class.
 - Students who are unable to use a laptop in class to complete the worksheet electronically should contact me for alternative means of demonstrating completion of handwritten worksheet.
 - If you exceed more than **four (4)** absences, you will be dropped from the course. ***You are responsible for keeping track of the number of absences you accumulate. Please keep records.***
 - Promptness is also mandatory. Late arrivals may be counted as absent. The same is true for early unauthorized departures.
2. Class participation and preparation are required.
 - If you are unprepared when called on in class, you are permitted to say “unprepared” on the **first** occasion without consequence.
 - If you are unprepared on a second and subsequent occasion, **your final grade will be adjusted down by one tenth for each occasion.**
3. In the Learning Assignments above, you will find occasional writing assignments or other written homework. All such exercises must be completed in good faith and on time. **Failure to do so on more than one occasion will result in the same penalty as set out in #2 above** (one tenth deduction for each missing or late assignment after the first one). The one missed or late exercise for which no penalty is assessed is designed to cover emergencies. Because of the ease of electronic submission, absence from class does not affect due dates or excuse completion of homework.
4. **Quizzes.** The scores for online Quizzes are recorded and included in your grade. They are set for a single attempt. The sum total of all scores on Quizzes will count for 5% of your grade. Deadlines for Quizzes will be strictly observed.
5. The **Midterm** will be administered during Week 8. It will be a timed, in-class midterm (75 minutes). The Midterm will count 15% of your grade.
6. The final examination will be 80% of your final grade.
7. Enrollment in **Course Website on TWEN** is mandatory. All assignments and quizzes are made available there, and completed assignments are uploaded there. The course website is entitled Torts II Keller Spring 2021. The password is kellert2.
8. I will maintain Office Hours by appointment using Zoom, days and times TBA. You may sign up for these appointments using the sign-up sheet feature on TWEN. If the available slots are full or you have a conflict with the available times, please contact me by email at skeller@wsulaw.edu.

9. **Requirements for Students in Zoom Sessions.** Below, you will find the faculty approved requirements for Zoom sessions. Additional requirements for the Property I class will follow on the next page...

- Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- Arrive to class early and dressed as you would to attend an in-person class.
- Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.
- Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- Do not post screenshots or recordings of any Zoom classes on social media. Such actions constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.

10. Additional Zoom Requirements and Recommendations:

- Sign into Zoom with the name under which you are registered for class, first name followed by last name. If you prefer to be called by a different name or nickname, please let me know.
- Unless I instruct you otherwise, please mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.
- If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.
- I will use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, etc.
- Students seeking to participate in class, ask a question, or respond to an open question should use the “Raise Hand” feature in Zoom, located in the “Participants” window. Please familiarize yourself with that function prior to class.
- Please do not use the “Chat” feature in Zoom while class is in session unless specifically instructed to do so. If you wish to get my attention or make a contribution, please use the Raise Hand feature instead. Communicating with other students by chat during the class session, unless there is a specific instruction to do so as part of an exercise, can be distracting. And “helping” another student with an answer actually can undermine the learning experience, which often is enhanced by some quiet contemplation and productive struggle.
 - Please **do** feel free to use Chat to communicate with me during the period of time before class begins, during break, or when I am hanging out on Zoom after class.

A Note About Supplements

There are no required or recommended texts for the course apart from the main Singer casebook (see p. 1 of this syllabus).

Students often ask Property professors to recommend supplementary workbooks to provide problems and practice, particularly in the first part of the course on Estates in Land and Future Interests. Many such workbooks exist, but I am not able to recommend any one in particular, as all of them have lacked consistency and have contained some errors. Rest assured that in addition to the problems in the casebook, I will also be providing you multiple worksheets and quizzes that will provide practice opportunities in this area. In past years, when students still wanted more such practice, I would recommend that they consult copies in the library before purchasing in order to determine if the purchase was worth it. However, I recognize that this year, that is not likely to be a convenient or feasible option during the early part of the semester.

While not a recommendation, in the past, I have found that the best sets of problems in Estates in Land and Future Interests were found in those books by the authors Linda Edwards and John Makdisi. Although each contains some errors in the explanations section, the questions themselves are useful, and you can always check with me if the answers seem off. A quick scan of Amazon reveals that the current versions of these texts are fairly expensive. I would suggest that if you have an interest in purchasing one of these books, you look to second hand sellers (like eBay), where old editions are available for much less. The subject matter in this area of law has not changed for hundreds of years, so there is little to be gained from purchasing the latest edition.

Let me reiterate that I do not think it is necessary to purchase one of these supplementary workbooks, and there is no recommendation to do so. You should never rely on the explanations in these books as a basis for learning the underlying rules; rather, if there is a conflict between what you think you have learned from our casebook or from class and what you read in one of these books, you should rely on the assigned course material. Always feel free to check with me about any basis for confusion.

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 in the Students Services Suite. 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 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."

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 Association, Evidence, Civil Procedures, 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 alternate 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 or 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 be able 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 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 support a particular application or distinction of a precedent case to a legal controversy or a particular 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' background 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.