

Property I, Section 2  
Professor Cox

The documents following this page are attached to this school web posting as a single document, but appear as two separate documents in the TWEN page for the course, under “Course Information & Readings.”

Once you are able to access the course TWEN page, you should use that site for any updates and changes to the following, and to access other information associated with the course.

I look forward to seeing all of you for our first class meeting, which is during the Week 1L orientation, on Wednesday, August 14, at 9:00 a.m. in room 204.

Professor Cox

## **Course Information** **Property I, Section 2**

Professor Cox

Class is scheduled to meet Mon & Wed from 9:00-10:15 in Room 204

Readings for daily class sessions are provided in a separate document called "Expected Readings..." This current "Course Information" document includes administrative information and information about expectations for the class that may be helpful to you throughout the semester. As with most documents I post, it is subject to revision.

### *TWEN page*

We are expected to have a TWEN page for this course that you should consult for announcements, updates, course information, and to post questions. Copies of this "Course Information" and the "Expected Readings" documents, along with all other course documents will be electronically available through the TWEN page.

### *Professor Cox availability*

My office is Room 222. I am available in person on a drop in basis when not teaching, preparing to teach, or meeting with students or faculty members. I love to meet with students, especially when you come with specific questions after having already wrestled with something you seek help on. Since I am involved in quite a few meetings and other duties, however, your best plan to make sure that you will be able to meet with me is to schedule an appointment directly with me. My e-mail is [stan.cox@siu.edu](mailto:stan.cox@siu.edu).

### *Make up class and optional Q&A classes*

Assuming there is student interest for it, I would be happy to host out-of-class Q&A sessions on occasional Fridays at 9:00. When and if we have them, such sessions would not be designed to cover additional material and would not have a Professor (me) driven agenda. Instead they would be to answer the questions of those of you who show up, like a group office hours.

We will also need to have at least one class on Friday at 9:00 as make up for the class that will not be held on Veteran's Day, Nov. 11. This make up class is currently reflected in the Expected Readings as Class #4 to be held Friday, Aug 23 from 9:00 - 10:15.

### *Class preparation and participation*

You should be fully prepared to answer questions about the significance of all readings assigned for each class session. I will randomly call on students and will sometimes take volunteers. If you recently have been called on or have recently volunteered, that does not immunize you from being randomly called on nearly immediately thereafter.

Of course life happens to everyone. Excellent lawyers in the real world occasionally are not prepared when they should be. In such instances, conscientious lawyers let everyone involved know *in advance* and collaborate to reschedule. I will excuse you from participating in class twice during the semester *if* you let me know in writing (e-mail is acceptable as a writing for this purpose) *prior* to the start of class that you are unprepared and that you are willing to volunteer for material for the next class session. To repeat, this must be done before the start of class, not when called on in class. If you are called on in class and pass, that counts as

unpreparedness for that class regardless of the reason.

Since success in law school requires active rather than passive learning, I believe I best further your learning about how to learn the law when I push you to articulate your reasoning, and when I help you to evaluate how well you understand material. This means I will ask questions more often than lecture. My in-class goal is to help you see what you know, what you don't, and what might be sound ways to approach legal problems. You are expected to make mistakes in class, but you should always be ready with your best efforts and a willingness to learn from your mistakes. It is better for you to learn how to address holes in your knowledge and build stronger legal analysis skills *before* you are tested, and *before* you are required to put legal skills into practice in the real world. Stick with it! As you learn better how to learn the law, you will make fewer or at least less significant mistakes.

You should use our class periods to confirm that you understood the material you prepared before class well enough to teach that material in class to a student who is not taking the class. You should be actively evaluating this when others are explaining or being questioned, by putting yourself mentally in their shoes and comparing how you would have answered or explained, seeing if your anticipated responses demonstrate mastery of the material. If the class period shows you, as is often the case, that you did not correctly or completely understand what you fully prepared before class, you should use the class period to make note of what you do not yet completely understand, and make note of what you will do soon after class to better achieve full understanding of that material.

You should also be ready at the start of every class to give a very brief summary of the main take-aways from the prior class session and/or recent sessions. Class sessions are almost always part of larger units. Being able to explain how what has gone before fits with what we are currently doing is part of what you need to do to succeed.

### *No electronic devices*

Our class, like both sections of Criminal Law, will be a no e-devices class (please also turn off cell phones, tablets, etc). Exceptions are only if I specifically tell you to bring your computer to class or if you have a documented need for an in-class computer as a learning accommodation. The reason for this e-device ban is two-fold. First, legal learning theory research consistently and strongly indicates that you will learn legal material better if you strive to process and engage with the classroom experience rather than try to transcribe it. This research indicates that handwritten notes facilitate such processing and that e-devices inhibit such processing. Your note taking in class should not be designed to capture the class but instead to try to make sense of it and to provide guidance to you about what you might do after class to increase understanding. A second reason for an e-device ban is to prevent surfing, which not only disengages the surfer from class, but also distracts those around the surfer. Enjoy the break from your e-devices!

### *ABA attendance and study requirements*

The school attendance policy is found in Rule III.5(f)–(g). Punctual attendance to all classes is a part of being a professional in training. There are no excused absences, nor make up of missed classes. School policy prohibits any student from signing an attendance sheet for another student, and tardiness counts under the rules as an absence from class.

The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard

310, a credit hour is an amount of work that reasonably approximates one hour of classroom or direct faculty instruction and a *minimum* of two hours of out-of-class student work for each classroom hour. Under this standard, for every 50 minutes of time spent in class you should expect to spend, on average, *at least* two hours in out-of-class work.

A more realistic ratio is likely three hours for every 50 minute class hour, and likely more time per class at the beginning of your law school career, when law may seem like a completely foreign language. Lawyers work hard in real life, and you will need to work hard in your law school studies to succeed.

### *Grades, Exercises, Examinations*

Your final grade will be based primarily on a midterm examination (likely 20% of your final grade, exact percentage TBA later), and a final examination (likely 80% of your final grade, exact percentage TBA later). I may assign other required exercises, which I will explain when/if assigned. Such exercises would count for class participation and are expected to usually be assessed on a pass/fail or true good faith attempt basis. It is likely, however, that some such required exercises or other optional exercises could be used to satisfy the requirements of the Academic Success course, in which case proficiency or mastery rather than just good faith effort would be required to satisfy the competency requirements for that course and perhaps also the class participation requirements of this course.

I reserve the right to reward exceptional performance or penalize consistent poor class performance by adjusting your final grade up or down by up to .3 on a 4.0 scale. Lack of class preparation, tardiness, poor attendance, or failure to satisfactorily complete assignments or exercises can result in a reduction of your grade. Quality rather than quantity of performance is what I look to when increasing a grade based on class performance.

Both the midterm and the final exam are expected to be closed book exams. The midterm is expected to be a one-two hour exam given during the week of Oct 7-11, and is expected to consist of a mixture of multiple choice and essay questions. The final exam is currently scheduled by the Registrar for Friday, December 6, 2019, at 8:15 a.m. as a three hour exam, and is expected also to be a mixture of multiple choice and essay questions.

### *Course Learning Objectives*

Substantively, you are expected to learn:

- > the basic concept of property, including theories supporting ownership and protection of property, as well as the extent and limitation of property rights
- > how ownership rights in real and personal property are obtained and transferred
- > about estates in land and future interests, including leasehold estates and concurrent estates
- > how a tenancy is created, transferred, and terminated, and what are the duties owed by landlords

As a matter of skills development, you are expected to develop:

- > legal analytic thinking skills
- > organizational and study skills appropriate for mastering legal concepts
- > proficiency in answering multiple choice questions, essay questions, short answer, and policy questions that ask you to identify, argue, and/or apply legal concepts and doctrine

Other important learning and class goals include:

- > developing respect for opposing viewpoints
- > having fun while exploring, discussing, and learning legal concepts and doctrine
- > caring passionately about the law and about learning the law
- > treating the class and the study of law as a professional obligation
- > imposing high expectations on me, on yourself, and on your peers

I look forward to learning with and from you this semester, to helping you master Property concepts, and to helping you achieve success in your 1L year. Bring your enthusiasm and willingness to work hard to our class. I look forward to teaching you!

Stan Cox

Here are some additional SIU policies and procedures of which you should be aware:

**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 assist your instructor in evacuating the building or sheltering within the facility.

**Disability Support:** Disability Support Services (DSS) 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. See: <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.

**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@](mailto:judiray@)

**Expected Readings**  
**Property I, Section 2**  
**Professor Cox**

All readings are from Sprankling & Coletta, *Property: A Contemporary Approach*, 4<sup>th</sup> Ed.

Readings are subject to change as to any particular class period. We may drift from the expected coverage slightly from class to class depending on what happens in class. I will generally, however, move on to the next sub-unit rather than go back to things not explored completely in any particular class. You are responsible for exam purposes for the content of all of the readings assigned below regardless of whether we get to all of them fully in class.

*Intro to Property* (classes 1 & 2 = pp 1-27)

Class # 1 (Wed, Aug 14) (This class is during orientation week and is a makeup for the class that will not be held Sept 2)

Read pp 1-15 (intro to theories of property; exploring the classic case of *Pierson v Post*, including intro to the rule of capture) (capture rules are continued in Class #10, first half)

Class # 2 (Mon, Aug 19)

Read pp 15-25; 25-27 (expanding the types of property to which property rights attach; hopefully also start intro to the main four traditional rights of property)

*Exploring the nature of property rights by exploring the four main traditional rights included in the bundle* (classes 3-6 = pp 25-94)

Class # 3 (Wed, Aug 21)

Read pp 25-49 (intro to the four rights, explore right to transfer)

Class # 4 (Fri, Aug 23) (This is a make-up class for the class that will not be held Nov. 11)

Read pp 49-68 (explore right to exclude)

Class # 5 (Mon, Aug 26)

Read pp 68-82 (explore right to use)

Class # 6 (Wed, Aug 28)

Read pp 82-94 (explore right to destroy) (+ review Chapter if time)

*Adverse Possession* (classes 7 & 8 = pp 95-133)

Class # 7 (Wed, Sept 4)

Read pp 95-114 (intro to real property; begin adverse possession; justifications for adverse possession, requirements, variations between jurisdictions)

Class # 8 (Mon, Sept 9)

Read pp 114-33 (adverse possession continued: state of mind considerations, tacking, party overlap, and procedural issues)

*Intro to airspace, sub-surface, and water rights*

Class # 9 (Wed, Sept 11)

Read pp 134-59

*Owning Personal Property* (classes 10-13 = pp 161-227)

*Rule of capture revisited and expanded*

Class #10 (Mon, Sept 16)

Read pp 161-74; [NOTE CLASS 10 CONTINUES BELOW WITH NEW UNIT!]

*Finders law*

Class #10 (Mon, Sept 16) [Note that this is still class 10!]

Read pp 175-85 (begin law concerning finders)

Class #11 (Wed, Sept 18)

Read pp 186-95 (continue finders law, including mislaid, abandoned and treasure trove)

*Adverse possession of chattels*

Class #12 (Mon, Sept 23)

Read pp 196-99

*Gift law*

Class #12 (Mon, Sept 23) [Note that this is still class 12!]

Read pp 209-10 and notes b-g@ pp 217-20, including hypos (intro to basics of gift law)

Class #13 (Wed, Sept 25)

Read pp 210-17 (including note a); 220-25 (notes h & i; be sure to spend some time with note i, since this is an important issue not covered elsewhere); (cases on gifts and gifts causa mortis)

Some of you will find the next unit on Estates & Future Interests easy, but many of you will not. It will likely feel for all of you different from the preceding units. The cases may seem less relevant to understanding the nature of the estate, but still are relevant to show us how ambiguity in drafting can create problems that good lawyers should try to avoid, how policy considerations might deal with ambiguity when lawyers or parties unfortunately create it, and how problems can arise between holders of interests in the same real property. Persevere! This material is easily bar testable and you can master it!

*Estates & Future Interests* (classes 14-20 = pp 303-75)

Class #14 (Mon, Sept 30):

types of present possessory estates and introduction to associated future interests

Read pp 303-09 (fee simple); 313 (note); 313-15 (life estate); 320-21 (notes e, f, & g = restraint on alienation; life estate issues); 321-22 (sample will); 328-31 (defeasible fee simple); 343 (noted); 344, 346 & 356 (charts and diagrams; while much of this chart material is yet to be covered, quite a bit of the material can be helpful now)

Class #15 (Wed, Oct 2):

case law issues concerning present possessory estates, plus intro to fee tail

Read pp 309-13 (*Cole plus* notes a-d); 315-19 (*White plus* notes a-e); 321 (note h); 309-13 (duties of life estate owner; waste doctrine); 325-28 (fee tail)

Mid-terms are the week of Oct 7-11 (expected coverage is everything assigned through Oct 2)

Class# 16 (Mon, Oct 14)

Read pp 344-56 (future interests in detail)

Class #17 (Wed, Oct 16):

Read pp 331-43 (cases involving defeasible fee problems; additional or leftover hypos re: future interests)

Class #18 (Mon, Oct 21):

Read pp 356-57 (rules furthering marketability, overview; [skim 357-62], Read 362-73 (rule against perpetuities); 374-75 (review)

*Concurrent estates* (classes 19-20 = pp 377-401)

Class #19 (Wed, Oct 23):

Read pp 377-97 (types of concurrent estates; problems of severance and partition)

Class #20 (Mon, Oct 28):

Read pp 397-401 (covenant rights and duties) NOTE THAT WE ALSO BEGIN NEW SUB-UNIT BELOW TODAY

*Intro to marital property* (classes 20-21 = pp 401-39)

Class #20 (Mon, Oct 28): NOTE THAT THIS IS STILL THE SAME CLASS SESSION AS ABOVE

Read pp 401-12 (different approaches to marital property; tenancy by the entirety)

Class #21 (Wed, Oct 30):

Read pp 413-19 (special problems regarding marital property)

Read pp 419-326 (property rights between unmarried couples)

Read pp 437-38 (notes d & e; same sex marriage property issues)

Read pp 438-39 (review)

*Leasing Real Property* (classes 22-26 = pp 441-534)

Class #22 (Mon, Nov 4):

Read pp 441-42 (overview); 442-56 (restrictions on selecting the tenant, especially impermissible discrimination)

Read pp 456-63 (what kind of tenancy)

Class #23 (Wed, Nov 6):

Read pp 463-69 (negotiating the lease and delivering possession)

Read pp 470-82 (the condition of the premises: substandard housing, constructive eviction)

Class #24 (Wed, Nov 13):

Read pp 482-92 (condition of the premises: implied warranty of habitability)

Read pp 492-502 (transferring tenant's interest to another via sublease, etc.)

Class #25 (Mon, Nov 18):

Read pp 502-10 (transferring tenant's interest, continued)

Read pp 511-20 (ending the tenancy: abandonment, security deposits)

Class #26 (Wed, Nov 20):

Read pp 520-32 (ending the tenancy: eviction);

Read pp 533-34 (review)

Our Final Exam is currently scheduled for Friday, Dec 6 at 8:15 a.m.