

*Property*  
CRN 77041  
Sec. 104-003  
Professor Claeys  
Fall 2007

Welcome to Property Law.

*Office hours and whereabouts*

My office is on the fourth floor, in the faculty suite, Room 420. My phone number is (703) 993-8247. My email address is [eclaeys@gmu.edu](mailto:eclaeys@gmu.edu). The course also has a TWEN site, and I am reachable on the discussion board of that site.

This semester, I will hold office hours Monday and Wednesday, 2-3 p.m. These are “walk-by” hours, meaning that I do not have any other appointments during them and you are free to come in to my office without appointment. However, I am happy to schedule appointments if office hours will not be satisfactory for your questions.

*Class times, cancellations, and make-up classes*

We meet in Room 120, Mondays and Wednesdays, 4 p.m. to 5:50 p.m. We’ll break for 10 minutes as close as we can to the middle of class without disrupting the discussion.

At this time, I do not anticipate canceling any classes. If I need to cancel class suddenly due to illness or some emergency, I will have my secretary post notices in the atrium and on the door of 120, and I will send an email to the class.

*Reading materials and first day’s assignment*

We will be using Thomas Merrill & Henry Smith, *Property: Principles and Policies* (2007); and Peter T. Wendel, *A Possessory Estates and Future Interests Primer* (3rd ed. 2007).<sup>[1]</sup> I will probably circulate a few supplements over the course of the semester. I will make the supplements available on TWEN unless they get larger and more unwieldy than I expect at present.

For class Wednesday August 22, for the first hour, please read Merrill & Smith, pp. 1-22. After the Jacque case, read nn. 1, 4 only. After the Hinman case, read nn. 1-4 only. For the second, we’ll clean up any reading left over from the first hour, then proceed to M&S 81-92. After the Pierson case, read nn. 1-2, 4, 7 only; after Ghen, read all the notes.

*Coverage*

Subject to my changing my mind, we will cover the following materials in approximately the following amount of time:

*Acquisition of property.* Chapter 2 & selections of chapter 3 of M&S, approximately 3 weeks.  
Occupancy, discovery, capture, creation, finders, adverse possession, riparian rights, spectrum.

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<sup>[1]</sup> In an earlier version of this syllabus, I indicated we’d use the 2005 2d edition. This was an error and I apologize for any inconvenience caused. I understand that the book store is carrying the 2007 3rd edition.

*Simple incidents of ownership.* Selections from chapter 4 of M&S. Overviews of licenses, bailments, abandonment, and transfer. 1 week.

*Estates, Future Interests, and Concurrent Interests.* Mostly from Wendel, with selections from M&S chapter 5. 3 weeks. Fees, other present possessory interests, future interests, co-tenancies.

*Landlord-tenant.* Selections from chapter 6 of M&S, approximately 1 week.

*Land transfer.* Chapter 8 of Merrill & Smith, approximately 1 week.

*Common law of land control and use.* Selections from chapters 1 and 4, and most of chapter 9 of M&S, approximately 4 weeks. Nuisance, easements, covenants and equitable servitudes. Some material will come primarily from supplements.

*Public-law regulation of land control and use.* Selections from chapters 9 and 12 of M&S. 1 week.

### *Class reading*

I will assign somewhere between 6 and 20 pages of reading per class hour. To help you read ahead, I post large blocs of class reading on the class TWEN page, significantly in advance. However, these postings are not promises, but projections. I reserve the right to change the projected reading schedule depending on how fast or slow we are going. If you read more than a class ahead, you assume the risk of reading material I decide to leave on the cutting room floor.

I expect you to be prepared for class. When Merrill & Smith excerpt a major case, I expect you to understand the facts, the cause of action involved, the remedy sought, the procedural posture of the case, the element or elements that are the special object of study in that case, and the holding and rationale. We will see obscure actions and remedies like “replevin,” or “trover.” I expect you to make a good-faith effort to look these up and understand these before class.

When Merrill & Smith present a “squib” case—that is, a case consolidated into one or two paragraphs of discussion in a case note—I expect you to know the facts, the holding, and the rationale.

Merrill & Smith have many thoughtful notes and questions after case excerpts. I will try as best I can to prune these to save you time in class prep, and in response I expect you to be familiar with the notes assigned. That said, if I am pressed for time, my lecture notes on case notes are the first thing to get left on the cutting room floor.

### *Class expectations*

I expect you to attend class on a regular basis, and the ABA makes it a general condition of accreditation that students not miss more than 2 weeks of class. I keep attendance by having you sign in each day.

If you miss more than 8 class hours (the equivalent of 4 classes), I will not seat you for the examination and to give you a “forced withdraw” grade for the course. This is what you will learn to be a “strict liability” policy: I do not waive this requirement because you are sick, have a job interview, personal emergency, &c. I do not enforce the attendance policy when I need to reschedule class because I am canceling class due to non-SLU commitments. But I expect you to self-regulate interviews, personal emergencies, illnesses, religious observances and other such commitments, so that you do not miss more than 4 classes’ worth of time.

I expect you to prepare for class. I call on students during class, to discuss material that a lawyer should have been able to digest from the reading without much assistance. If I call on you and you are unprepared, that counts as an absence for that hour (i.e., 1 but not 2 of your not-to-exceed 8 hours). If you are unprepared and wish to avoid getting called on, please notify me before the beginning of class and I will mark you for a 1/2 absence for the 2-hour class.

During class, I expect you to be generally respectful to me and your classmates. Imagine the standards of comportment you would use if you were a lawyer, sitting in front of a judge, watching as the judge engages another lawyer in the proceeding. Please treat me and any of your colleagues with whom I am conversing with the same professional courtesy.

Because this is a general standard, I cannot predict all the situations in which it will apply—or how I will correct breaches of it. But let me give a few illustrations. Please do not walk into class after it has begun; I reserve the right to deny a student who has done so a seat and deem him not to have attended for the hour. Please do not engage in disturbing side conversations during class; I reserve the right to break up such conversations by calling on the participants and, if they cannot answer, to deem them unprepared for the day. Please do not use personal computers during class for any form of entertainment besides taking notes and referring materials directly related to Property; I reserve the right to deem students using their computers for non-class purposes not in attendance. Please mute or turn off cell phones and other noise-making devices before class. If a cell phone rings during class, I reserve the right to make the owner stand and answer it in front of the rest of the class. For repeat offenders, I reserve the right to answer the phone myself.

### *Grading*

The grade for this class will be based solely on a 4-hour in-class examination at the end of the semester. When I say “solely,” I mean that I do not and will not adjust grades for in-class participation except as consistent with my attendance policy. The examination will be closed book. 2.5-3 hours of the exam will consist of essays or short answers; 1-1.5 hours will consist of multiple-choice questions.

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