

NOTICE TO STUDENTS WITH DISABILITIES: If you need accommodations because of a disability, if you have emergency medical information, or if you need special arrangements in case the building must be evacuated, please notify me or Associate Dean Jim Devine as soon as possible. To request academic accommodations (for example, a note taker), students must also register with Disability Services, AO38 Brady Commons, 882-4696. This is the campus office responsible for reviewing documentation provided by students requesting academic accommodations, and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements. For other MU resources for students with disabilities, click on “Disability Resources” on the MU homepage.

PROPERTY(Section 1)

Winter Semester 2008

Professor Wilson Freyermuth

Time: 11:55-1:00 MTWR

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Course Information and Policies

TEXT AND MATERIALS: The required casebook is FREYERMUTH, ORGAN, NOBLE-ALLGIRE & WINOKUR, *PROPERTY AND LAWYERING*, 2d edition (WestGroup 2006). Copies are available in the campus bookstore, or can be purchased online from a variety of sources, including Westlaw’s online bookstore.

Following is a list of suggested secondary materials that should aid your study outside of class. Each should be available on reserve in the library.

JOHN G. SPRANKLING, *UNDERSTANDING PROPERTY* (LEXIS Publishing). Many students find the mini-treatises in LEXIS’s *Understanding* series to be helpful resources, and this is a good one.

CRIBBET AND JOHNSON, *PRINCIPLES OF THE LAW OF PROPERTY* (3d ed., Foundation Press). This relatively short hornbook is very general in its coverage. It is most useful for those who find they need more detail about the historical material in the course.

HOVENKAMP AND KURTZ, *THE LAW OF PROPERTY* (6th ed., West). This paperback treatise is moderate in its coverage, and does an excellent job of laying out basic property rules in an extended outline form. It also has a large number of short essay-type problems (with answers) for you to test your understanding of basic concepts.

STOEBUCK AND WHITMAN, *PROPERTY* (3d ed., West). This hornbook is the most detailed in its coverage. If you cannot find a satisfactory explanation in one of the other two hornbooks, consult this one.

ACADEMIC INTEGRITY: Academic integrity is fundamental to the activities and principles of a university. All members of the Law School community must be confident that each person’s work has been

responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest, whether or not the effort is successful. The Law School community regards breaches of the academic integrity rules as extremely serious matters. Sanctions for such a breach may include academic sanctions (up to and including failing the course) and disciplinary sanctions ranging from probation to expulsion. I encourage you to make sure that your work in this and other courses complies in all respects with the Law School's Honor Code.

INTERACTION WITH STUDENTS: I maintain an open-door policy. I do not maintain regular "office hours," but am in my office much of the time during most weekdays. If you have a question or concern about the course or law school, and I am in my office, please feel free to come and see me. If you need to set up a specific appointment time for scheduling reasons, you are welcome to do so.

Many students find it easy to communicate with me by e-mail: my address is freymuthr@missouri.edu and you are welcome to raise questions or concerns by e-mail if it is convenient for you.

On most Mondays during the semester, I will schedule lunch following class at 1:00pm for myself and 4 or 5 class members, to give us a chance to get better acquainted in a less formal setting. Also, during the semester, as we finish each Chapter in the casebook, I will schedule a question/answer session to assist students in their review and synthesis of the course materials. [These sessions are scheduled outside of class time and attendance is voluntary.]

ATTENDANCE POLICY: According to American Bar Association accreditation guidelines, class attendance is required and expected of all students. At each class, I will circulate a sign-in sheet for you to record your attendance. You are responsible to make sure that your name is on the attendance sheet. **I also expect students to be present and ready to begin class promptly at 11:55am.** Any student that misses more than **eight (8)** regularly scheduled classes during the semester ***will be dropped from the course.***

From time to time, you may have to miss a class because of illness, family responsibilities, or the like. I expect that you will provide me with prior notice of any anticipated absence (an e-mail message is fine) or, in cases of emergency when notice prior to class is impossible, as promptly as possible afterwards. In practice, clients and colleagues will expect such courtesy, so I encourage you to get in the habit of providing notice when you must miss class.

Keep in mind (for this class and others) that most of you will need one or more of your professors to provide valuable references for you in the future — whether for the bar examiners or for potential future employers. If you are present and prepared for class discussion, and provide your professors with prior notice on the rare occasions when you must be absent, your professors will take note of your diligence and discipline — and will not hesitate to share that impression with persons seeking information about you. Correspondingly, if you are often absent without explanation or excuse, your professors notice that too.

LAPTOP COMPUTER POLICY: Over the past two years, however, I have received increasing number of complaints from students about laptops — particularly, the extensive distraction caused by other students making irresponsible use of laptops during class time (e.g., answering their e-mail, instant messaging, online shopping, web surfing). I do not think it is appropriate to ban use of laptops in class, because many students find a laptop to be useful both for the purpose of notetaking and in facilitating the outlining and synthesis of the course materials. However, I expect students in class using laptops to do so with appropriate courtesy and sensitivity to other students in the class. **Use of laptops during class is limited to class-related use only.**

COURSE GRADE: Grades in this course will be based upon the following:

- A. **Final Exam.** The final exam will be at the time designated on the final exam schedule. The exam will consist of a combination of multiple choice, short answer, and essay questions.
- B. **Class Participation.** Participation in class discussion is an integral part of the law school learning experience. As a result, I both encourage and expect you to participate in class discussion. To facilitate class discussion, at least three students will be “up” during each class period. I will expect those students to help facilitate class discussion during that period, although I will also call on students at random. The weekly posted assignment (posted on the class web page), in addition to identifying each daily assignment, will also identify the students who are “up” for each class period.

For each class or topic, I will post a series of discussion questions relating to the assigned material. I will use some or all of these questions as the basis for in-class discussion. To best facilitate good class discussion and the best use of limited class time, **I strongly encourage those students who are “up” for each class period to meet together prior to the class meeting, as a “study group,” to work through the discussion questions for that material.**

Active participation is both encouraged and expected, both on the days that a student is “up” and on other days as well. I reserve the right to add up to two (2) points to a student’s final course grade for **consistent and exceptional** class participation. [In past semesters, anywhere from 3 to 8 students have had their grades adjusted upward, either by 1 or 2 points.] I also reserve the right to deduct up to two (2) points from a student’s final course grade for repeated unpreparedness.

COURSE WEB PAGE: I maintain a Web page for this course. You can use the following URL <http://www.law.missouri.edu/freyermuth/property> to reach the course Web page. A copy of this syllabus is posted on the Web page. Each Friday, I will post the assignments for the following week, and the website archives prior assignments. In addition, I may occasionally post a new hypothetical (*i.e.*, one not included in the course materials) for the next class period’s discussion. Finally, any messages regarding the postponing or rescheduling of classes will be posted to the course Web page. **You should check the Web page on the day prior to each scheduled class for new information.**

ASSIGNMENTS: Prior to each Friday’s class, I will post a message containing specific daily assignments for the following week’s classes on the course Web page. The weekly assignment posting will also identify the students who are “up” for each scheduled class. Prior to each class, all students should have read, and should be prepared to discuss, any portion of the assigned material.

The assignment for the first class appears at the end of the paper version of this syllabus, and also appears on the course website.

CALI LESSONS: There are a number of interactive computer lessons for Property law available from CALI (The Center for Computer-Assisted Legal Instruction). Weekly assignments will indicate the course topics for which there are currently CALI lessons available. Where the weekly assignments indicate that a CALI lesson is available, students should review that lesson in conjunction with the assigned reading from the casebook. The lessons are available via the web from CALI’s website, which is www.cali.org.

POSTPONEMENTS: Classes will not meet on the following dates: March 12 and March 13. We will have one make-up class on Friday, January 18 (11:55am to 1:00pm). A make-up day for the other class session will be announced during the semester.

INITIAL ASSIGNMENTS

Property Prof. Freyeremuth

A. **Assignment prior to first class:** Please write a note (no more than a page in length) giving me some biographical information about yourself: where you're from, your background, why you came to law school, your hobbies/interests, and/or any other information that will help me get to know you better. Submit this to me by e-mail at freyermuthr@missouri.edu on or before Wednesday, January 16.

B. **Assignment for Classes #1 and 2, Wednesday, January 16 and Thursday, January 17:** Read pages 1-35 of the casebook. During class, we will discuss *Jacque v. Steenberg Homes, Inc.* and *State v. Shack* and the notes following those cases. Consider the following questions:

1. Note 1 after *Jacque v. Steenberg Homes* introduces Guido Calabresi's conceptual framework for protecting claimed entitlements. He suggests that claimed entitlements may be protected by a "property" rule, a "liability" rule, or by no legal protection at all. What is it about the remedy that the Jacques received in this case that demonstrates that the court protected their entitlement using a property rule? What remedy would they have received if the court had chosen instead to protect their claimed entitlement via a liability rule?
2. Why should the law give the Jacques the legal power to exclude Steenberg and others from their land? If it were dramatically easier, cheaper, and safer for Steenberg to deliver the home across the Jacques' land, why shouldn't the law allow Steenberg to do so?
3. In January 2004, Pine Lawn, MO police arrested Curtis Smith on drug charges. In searching him, police found and confiscated a \$1,000 bill. At some point, Pine Lawn mayor Adrian Wright learned of the bill, at which point the police allowed him to "purchase" the bill from the evidence locker in exchange for ten \$100 bills. Assume that when Smith was released, the police officials refused to return the \$1000 bill, instead offering to give him either the ten \$100 bills or a check for \$1,000. What "entitlements" did Smith have in the \$1,000 bill, and how would they be protected? Can Smith recover the bill? Would your answer be different if the bill was only a \$20, but it was a keepsake to Smith (assume it was the first \$20 he ever earned from his business)? What if the police had used the \$20 bill to buy office supplies from Office Depot? Now can Smith recover the bill?
4. In *State v. Shack*, what is the court's actual holding? Exactly what is the source of authority for the court's holding?
5. To what extent does the concept of "externalities" (note 4, page 28) influence the judgments in *Jacque v. Steenburg Homes* and *State v. Shack*?
6. Consider the Lawyering Exercise on pages 30-31. What advice would you give to Raymond regarding the relevance of *State v. Shack* on the legal issues involved in his proposed suit for an injunction against Trump's Taj Mahal?
7. Freyeremuth, owner of Tar Heel Bar & Grill, refuses to admit and serve Monahan because she is a Duke fan. Monahan seeks an injunction to prevent Freyeremuth from excluding her and other Duke fans from his establishment. Does the analysis in *State v. Shack* have any relevance to the resolution of this dispute? Why or why not? Should Monahan be able to obtain this injunction?