

PROPERTY FALL 2023

PROFESSOR MICHAEL ALLAN WOLF

SECTION 3, LAW 5400, CLASS 22166, 4 CREDIT HOURS

SYLLABUS AND CLASS PROCEDURES

OUR CLASS WILL MEET ON TUESDAYS, WEDNESDAYS, AND THURSDAYS FROM 3:30 PM TO 4:45 PM, IN ROOM 180.

My office is Room 307, my email address is wolfm@law.ufl.edu, and my phone number is 352-273-0934. I am typically in my office Monday through Friday. My Office Hours are Tuesdays and Wednesdays from 4:45-5:45. If my door is open, you are welcome, as I do not restrict my contact with students to a few hours per week. If I am not in the office when you want to meet, and you would like to set up an appointment, please send me an email message.

THERE ARE TWO REQUIRED TEXTS FOR THIS CLASS: BOTH ARE AVAILABLE AS FREE PDFS THAT I HAVE POSTED ON THE CANVAS SITE FOR THE COURSE: (1) Michael Allan Wolf, *Property Cases, Questions, and Doctrine* (2020); (2) *Powell on Real Property Michael Allan Wolf Desk Edition (MAWDE)* (excerpts).

ADDITIONAL ASSIGNMENTS (INCLUDING NEW CASES) WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE OR DISTRIBUTED BY EMAIL.

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

COURSE DESCRIPTION (FROM WEB PAGE): *The acquisition and possession of real and personal property; estates in land; introduction to future interests; landlord and tenant; survey of modern land transactions and methods of title assurance; easements; and licenses, covenants, and rights incident to land ownership.*

COURSE GOALS AND/OR OBJECTIVES: *By the end of this course, it is my hope that students will:*

- *be skilled and experienced at reading cases carefully and efficiently,*
- *get in the habit of looking up definitions of unfamiliar terms and citing relevant authority for any and all legal propositions,*

- *be prepared to understand and advocate more than one side of an issue if there is not one definite answer,*
- *write well-organized answers to essay questions that spot issues, relate the relevant law to the pertinent facts, and resolve those issues,*
- *appreciate how our legal rules and doctrines are products of societal, economic, political, and historical developments,*
- *be familiar with Anglo-American property doctrines regarding acquisition of ownership, adverse possession, present estates and future interests, landlord-tenant, concurrent ownership, servitudes, real property transactions, and takings.*

COURSE POLICIES:

ATTENDANCE POLICY: *The law school's policy on attendance can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. Each student is permitted six absences during the semester. Within one week of missing class, you are responsible for reporting to me via email that you missed class. There is no need to explain your absence, as I do not differentiate between excused and non-excused absences. I reserve the right to reduce the grade for a student with excessive absences and to bar the student from taking the final exam.*

INTERNET USE IN THE CLASSROOM: *I expect that during each class all students will be prepared to conduct research on the internet (usually Lexis or Westlaw) using a laptop, tablet, or other device. Of course, students are not to use these devices (including smart phones) for any non-pedagogical purposes.*

ACADEMIC HONESTY: *Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <https://sccr.dso.ufl.edu/policies/student-honor-code-student-conduct-code/>.*

CLASS RECORDING POLICY: *The Office of Student Affairs will continue to record all classes via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will determine when students may have access to these recordings, and the recordings will be password protected. These recordings will be retained only for a short period of time and it is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.*

GRADING POLICIES:

I expect that students will have done the assigned readings for each class. I will rely on student participation to facilitate the learning of challenging concepts. Students who participate at a consistently high level may be rewarded by a one-half grade bump (e.g.,

from B+ to A-). I reserve the right to lower the grades of students who disrupt the learning environment by a one-half grade bump.

THERE WILL BE THREE GRADED TESTS DURING THE SEMESTER: *The first test, a closed-book essay test, will be administered after we complete Topic II (on adverse possession). There will be 0-5 points awarded for this test.*

The second test will be a closed-book, multiple-choice test that will only cover present estates in land and future interests (Topic III). It will be administered after we complete Topic III, and there will be 0-25 points awarded for this test.

The third test (the final exam) will be a cumulative, open-book, essay test. This 4-hour test will be administered during the final exam period, and there will be 0-70 points awarded for this test.

The law school policy on exam delays and accommodations can be found here:

<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

GRADING SCALE: *The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:*

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0

C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

WORKLOAD/CLASS PREPARATION:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction.

ACCOMMODATIONS:

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

ONLINE COURSE EVALUATION PROCESS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via

<https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

HEALTH AND WELLNESS RESOURCES:

U Matter, We Care: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit [U Matter, We Care website](#) to refer or report a concern and a team member will reach out to the student in distress.

Counseling and Wellness Center: [Visit the Counseling and Wellness Center website](#) or call 352-392-1575 for information on crisis services as well as noncrisis services.

Student Health Care Center: Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](#).

CLASS READINGS:

You will find below a list of the topics that I anticipate we will cover during the semester, along with a rough estimate of how many class classes per topic. Please note, however, that the pace at which we cover the materials in our reading list will depend on your pace of learning. I will not leave a topic until I believe that the students who are prepared for class have a good understanding of the material. In the event we are moving more slowly than anticipated, I will not speed up to cover all of these readings. Instead, I will make cuts in the assigned readings.

Battle v. Howard, 489 Mass. 480, 185 N.E.3d 1 (2022) (FIRST 2 CLASSES) (pages 7-12 of the casebook posted on Canvas)

TOPIC I: FIRST POSSESSION (2 classes)

Pierson v. Post, 3 Cai. R. 175, 2 Am. Dec. 265 (N.Y. 1805)

Hammonds v. Central Kentucky Natural Gas Co., 255 Ky. 685, 75 S.W. 2d 204 (1934)

TOPIC II: ADVERSE POSSESSION (Part 1) (2 classes)

Lessee of Ewing v. Burnet, 36 U.S. 41 (1837)

Marengo Cave v. Ross, 212 Ind. 624, 10 N.E. 2d 917 (1937)

MAWDE Sections 91.01-.09

TOPIC II: ADVERSE POSSESSION (Part 2) (2 classes)

In re .88 Acres of Property Owned by the Town of Shelburne, 676 A.2d 778 (Vt. 1996)

MAWDE Sections 9.10-.13

FIRST TEST

TOPIC III: ESTATES IN LAND AND FUTURE INTERESTS (Part 1) (2 classes)

Johnson v. Whiton, 34 N.E. 542 (Mass. 1893)
MAWDE Sections 13.01-13.04

TOPIC III: ESTATES IN LAND AND FUTURE INTERESTS (Part 2) (2 classes)

Long v. Long, 45 Ohio St. 2d 165, 343 N.E.2d 100 (1976)
MAWDE Sections 14.01-14.07

TOPIC III: ESTATES IN LAND AND FUTURE INTERESTS (Part 3) (1 class)

Melms v. Pabst Brewing Co., 104 Wis. 7, 79 N.W. 738 (1899)
MAWDE sections 15.01-15.03, 20.02[1,2], 56.01, 56.03-56.06, 56.11

TOPIC III: ESTATES IN LAND AND FUTURE INTERESTS (Part 4) (2 classes)

Charlotte Park and Recreation Commission v. Barringer, 242 N.C. 311, 88 S.E.2d 114 (1955)
MAWDE Sections 13.05, 20.01-.03

TOPIC III: ESTATES IN LAND AND FUTURE INTERESTS (Part 5) (4 classes)

Popp v. Bond, 28 So. 2d 259 (Fla. 1946)
Buck v. Banks, 668 N.E. 2d 1259 (Ind. Ct. App. 1996)
MAWDE Sections 20.04-.05; 31.07, 31.08, 30.04[1]; 72.06, 72.01-.05, 72.09-.10, 75A.01, 75A.06

SECOND TEST

TOPIC IV: LANDLORD-TENANT (Part 1) (2 classes)

Harry's Village, Inc. v. Egg Harbor Township, 89 N.J. 576, 446 A.2d 862 (1982)
Bostonian Shoe Co. v. Wulwick Associates, 119 A.D.2d 717, 501 N.Y.S.2d 393 (1986)
Pendleton v. U.S. 60 Assocs., LLC, 318 S.W.3d 604 (Ky. Ct. App. 2010)
Julian v. Christopher, 575 A.2d 735 (Md. 1990)
MAWDE Sections 16.02, 16.03-16.06, 17.04

TOPIC IV: LANDLORD-TENANT (Part 2) (2 classes)

Jacobs v. Morand, 59 Misc. 200, 110 N.Y.S. 208 (Sup. Ct. App. Term, 1908)
Javins v. First Nat'l Realty Corp., 428 F.2d 1071 (D.C. Cir. 1970)
Leeth v. J & J Props., 69 So. 3d 176 (Ala. Civ. App. 2010) (majority opinion only)
MAWDE Sections 16B.01-.05

TOPIC V: CONCURRENT ESTATES (3 classes)

Land Am. Commonwealth Title Ins. Co. v. Kolozetski, 159 N.H. 689, 992 A.2d 681 (2010)
Wengel v. Wengel, 270 Mich. App. 86, 714 N.W.2d 371 (2006) (edited)
In re Estate of Johnson, 739 N.W.2d 493 (Iowa 2007)
Sawada v. Endo, 57 Haw. 608, 561 P.2d 1291 (1977) (majority opinion)
MAWDE Sections 50.01-50.03, 51.01-51.04, 50.04-.07, 52.01-.03, 52.05

TOPIC VI: Servitudes (Part 1) (3 classes)

Rowe v. Lavanway, 180 Vt. 505, 904 A. 2d 78 (2006) McClung v. Ayers, 352 S.W.3d 723 (Tex. App. 2011)
Willard v. First Church of Christ, Scientist, 7 Cal. 3d 473, 498 P.2d 987 (1972)
Mohr v. Midas Realty Corp., 431 N.W.2d 380 (Iowa 1988)
U.S. v. Blackman, 613 S.E.2d 442 (Va. 2005)
Kitchen v. Kitchen, 465 Mich. 654, 641 N.W. 2d 245 (2002)
MAWDE Sections 34.01-.02, 34.04, 34.07-.08, 34.10-.11, 34.13-.16, 34.18-.27

TOPIC VI: Servitudes (Part 2) (4 classes)

Morse v. Aldrich, 36 Mass. 449 (1837)
Wheeler v. Schad, 7 Nev. 204 (1871)
Tulk v. Moxhay, [1843-1860] All ER Rep 9 (Ch.)
Patch v. Springfield School District, 989 A.2d 500 (Vt. 2009)
Vernon Twp. Volunteer Fire Dep't, Inc. v. Connor, 579 Pa. 364, 855 A.2d 873 (2004)
MAWDE Sections 60.01-.10

TOPIC VII: Real Estate Transfer (Part 1) (3 classes)

Hans v. Lucas, 270 Neb. 421, 703 N.W. 2d 880 (2005)
Melican v. Parker, 289 Ga. 420, 711 S.E. 2d 628 (2011)
Fairbourn Commer., Inc. v. Am. Hous. Ptnrs., Inc., 94 P. 3d 292 (Utah 2004)
Haisfield v. Lape, 264 Va. 632, 570 S.E. 2d 794 (2002)
Thomas v. Sloan Homes, LLC, 81 So. 3d 309 (Ala. 2011)
MAWDE Sections 81.01, 81.03, 81.05, 84C.04

TOPIC VII: Real Estate Transfer (Part 2) (2 classes)

Salt Lake County v. Metro W. Ready Mix, Inc., 89 P. 3d 155 (Utah 2004)
Tefft v. Munson, 57 N.Y. 97 (1874)
Gulfc of La., Inc. v. Brantley, 430 S.W.3d 7 (Ark. 2013)
MAWDE Sections 82.01-.03, 84.02, 37.36

TOPIC VIII: Takings Discussion Questions (1 class)

Kelo v. City of New London, 545 U.S. 469 (2005)
Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922)
MAWDE Section 79F.03

FINAL EXAM:

Friday, December 8, 2023