
INTERACTIVE CASEBOOK SERIESSM

Property

■ A Contemporary Approach ■

SIXTH EDITION

John G. Sprankling
Raymond R. Coletta
Rachael E. Salcido

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To Gail, Doug, Tom, Alexis, Adeline, and Ben
J.G.S.

To Mom, Claudia, Sean and Mary, Julian and Sarah,
and my little ones—Eloise and Jonathan
R.R.C.

To Phil and Natalie
R.E.S.

Preface

This book is designed for you: the twenty-first century law student. Property has been part of the first-year curriculum for decades. Perhaps as a result, property casebooks tend to be somewhat old-fashioned in format and content. You will find that this book is different. It provides a modern approach to the traditional course.

What distinguishes this book?

- It presents the core concepts of property law in a streamlined format that is clear and easy to understand, while maintaining the intellectual challenge of the subject.
- The materials are as engaging and relevant as we could make them. We provide interesting background information about the cases, often in boxes inserted into the text. We also address two areas that are usually omitted from property courses: intellectual property and environmental law.
- And just as today's lawyer uses both physical books and electronic resources, you have access to both the hard copy of this book and an online version.

The ebook provides a wide range of resources not found in standard casebooks. Property is a visual subject. You will often understand the material better if you can see a photograph, a map, or a diagram. Accordingly, there are over 200 points in the ebook where you can click into a visual resource. It also contains a number of audio clips, ranging from popular songs to oral arguments before the Supreme Court. Finally, the

ebook is hyperlinked to cases, statutes, law review articles, and other resources in Westlaw, so you can easily read the full text of all cited materials online, as modern lawyers do every day.

A few words about our subject: Property reflects the choices that each culture makes about how to allocate its resources. Its development is a product of—and a catalyst for—the economic, political, and social forces that shape a society. Many of the most challenging issues that we confront as a nation involve property law, such as encouraging economic development, preventing discrimination, protecting the environment, providing affordable housing, regulating land use, taking private property for public use, and using natural resources wisely.

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We wish to thank everyone at West Academic—particularly Louis Higgins and Daniel Buteyn—for sharing our vision that this book and the other texts in the Interactive Casebook Series represent the future of American legal education.

In preparing this edition and prior editions, we were benefited by the insights of other colleagues who teach property or related courses. We particularly wish to thank Michael Blumm, Karrigan Börk, Donald Campbell, Scott Christman, Curt Cichowski, McKay Cunningham, Matthew Downs, Josh Eagle, Tabrez Ebrahim, Dave Eggert, Dave Fagundes, Dorothy Glancy, Michael Gottesman, George Gould, Shelby Green, James Grimmelmman, Ardath Hamann, Jennifer Harder, Tim Harris, Paul Hesse, Ron Hochbaum, Yolanda King, Maureen Kordesh, Sheldon Lyke, John Minan, Mike Mireles, Thomas Mitchell, Uma Outka, Robert Parrish, Heather Payne, Ngai Pindel, Eric Priest, David Sandino, Betsy Schmidt, Charles Sheppard, Sheila Simon, Allison Tirres, and Judith Wegner.

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We welcome your comments, criticisms, and suggestions. Please write to us at the University of the Pacific, McGeorge School of Law, 3200 Fifth Avenue, Sacramento, CA 95817 or email us at jsprankling@pacific.edu, rcoletta@pacific.edu, or rsalcido@pacific.edu.

As authors, we own any errors in the text, at least until someone with better title comes along.

JOHN G. SPRANKLING
RAYMOND R. COLETTA
RACHAEL E. SALCIDO

March 2024

Features of This Casebook

Throughout the book you will find various text boxes on either side of the page. These boxes provide information that will help you to understand a case or cause you to think more deeply about an issue.

For More Information

These boxes point you to resources to consult for more information on a subject.

Food for Thought

These boxes pose questions that prompt you to think about issues raised by the material.

Take Note

Here you will be prompted to take special notice of something that deserves further thought or attention.

What About Your State?

These boxes provide Westlaw search terms that enable you to find the law of your state relevant to the material in the text.

FYI

A self-explanatory category that shares useful or simply interesting information relevant to material in the text.

See It

These boxes point you to visual information that is relevant to the material in the text.

Hear It

These boxes point you to an audio file that is relevant to the material in the text.

Go Online

If there are relevant online resources that are worth consulting in relation to any matter being discussed, these boxes will direct you to them.

Make the Connection

When concepts or discussions pertaining to information covered in other law school courses appear in this text, you will find this box to indicate the course in which you can study those topics. You may also be prompted to connect information in the current case to material you have covered elsewhere in this course.

It's Latin to Me

The law is fond of Latin terms and phrases; when you encounter these for the first time, this box will explain their meaning.

What's at?

These boxes explain the meaning of special legal terms that appear in the main text.

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Practice Pointer

Here you will find advice relevant to legal practice typically inspired by the actions (or inactions) of legal counsel in the cases or simply prompted by an important issue being discussed.

Test Your Knowledge

These boxes point you to multiple choice quizzes that provide immediate feedback to help you gauge how well you're understanding the material. Many provide links to authoritative explanations from our Hornbook Series®.

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Joseph L. Sax, *Some Thoughts on the Decline of Private Property*, 58 Wash. L. Rev. 481 (1983).

David A. Schultz, *Property, Power, and American Democracy* (1992).

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