

**SYLLABUS OF READINGS FOR REAL ESTATE TRANSACTIONS  
PROFESSOR CRUMP, SPRING 2023**

**This is a list of readings from the casebook and other sources. The list is not exhaustive** – there will be certain other readings and projects, including certain individual projects—and it may at times become necessary to deviate from the syllabus.

**Certain readings are set out in CAPITAL letters. These cases or readings are to be emphasized. Others are in lower case; this indicates that our treatment of the case will be by lecture**, and it accordingly indicates that you should not concentrate on that case as heavily as upon other readings. I hope that this device will help you manage the reading better.

**Welcome to Real Estate Transactions!** This is a difficult, challenging course, but it also is a wonderful, exciting course, one that will repay the hard work you and I will put into it. Of all of your courses, this is the one that will most emphasize private arrangements as “the law between the parties.” This course will be different from other courses, but that is why it will be valuable. The course objective is learning about the ways in which lawyers build things through agreement or consensus, rather than about how they pursue disputes through lawsuits.

**I. *Real Estate Transactions, I: The Purchase Agreement***

**A. *The "Road Map" of a Typical Transaction***

-A SIMPLIFIED ROAD MAP (127) (Read carefully. It will show you the "big picture" of the next four chapters.)

**B. *The Atmosphere of Risk in Which Property Transfers Are Negotiated***

-Isaac Asimov, Foundation (129); NOTES AND QUESTIONS (130); McElroy article ("Ross and Me") (131); NOTES AND QUESTIONS (135); Notes and Questions on Disadvantages of Litigation)(136)

-HOW TO READ A CONTRACT PROPOSAL (37, in ch. 2); Stark, Thinking Like a Deal Lawyer (137); NOTES AND QUESTIONS (140)

**C. *Simulation: Telling the Client What's in a Proposed Contract***

-SIMULATION EXERCISE 2A (pages 44-45 & go to <https://caplaw.com/sites/cprop4>, then click on SIMULATION EXERCISE 2A)

End Class 1

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**C. *Continued: PERFORM SIMULATION EXERCISE 2A (CONTRACT ANALYSIS)***

**D. *Brokerage***

-Note on Brokerage (141); FRADY V. MAY (142); Notes and Questions (146); Edson v. Fogarty (147); NOTES AND QUESTIONS (148); Miller v. Keyser (148) (the Texas rule is like *Edson* but based on the Texas DTPA)

-BROKERAGE AGREEMENT (149); NOTES (153)

**E. *Negotiations for a Purchase Contract***

End Class 2

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-*Agreements to Negotiate*: Vestar Development v. General Dynamics (154)

-*Negotiation Techniques*: Dorsaneo & Crump Article (158); Notes (172); Problems (173) (read the Problems briefly)

**F. *Conditions and Requisites of the Document Expressing the Agreement***

-*Statute of Frauds*: Note (169); NOTES (171)

-SIMULATION 4A (172) & go to <https://caplaw.com/sites/cprop4>, then click on SIMULATION

EXERCISE 4A (STATUTE/FRAUDS ARGUMENT).

-*Conditions*: Note on Inspection (172); ALLEN V. CEDAR REAL ESTATE GROUP (172); Frady v. May (142); NOTES AND QUESTIONS (178); Note on Title Conditions (middle 180); NOTES AND QUESTIONS (bottom 180)

End Class 3

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-*Options*: Note (181); Siarah Atlantas v. New Era Vantures (181); NOTES 2-3 (183)

-*Escrows and Earnest Money*: Note (183); In the Matter of Akivis (184); NOTES (185)

G. *The Provisions of a Typical Real Estate Agreement*

-Note (185-88); A SAMPLE AGREEMENT (189); NOTES AND QUESTIONS (197-200)

-SIMULATION EXERCISE 3A (81, and go to <https://caplaw.com/sites/cprop4>, then click on Simulation Exercise 3A)(ANALYZE PRAVELKA-DAMANI K)

H. *Liability Outside the Contract*

-Note on Parol (200); Note on Types (201); NOTES AND QUESTIONS (201); Stambovsky v. Ackley (203); NOTE 1 (204) (the Texas rule is different!)

End Class 4

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-AMYOT V. LUCHINI (205); Notes (208); Notes and Question (211)

I. *Contract Renegotiation*

-SIMULATION EXERCISE 4B (211, and go to <https://caplaw.com/sites/cprop4>, then click on Simulation Exercise 4B) (RENEGOTIATION OF SIM 3A)

2. ***Real Estate Transactions, II: Financing and Conveyancing Documents***

-Note on Lenders (213); Note on Documentation ("Big Picture") (214)

A. *The Core Documents: Note, Deed, and Security Instrument*

-Note on the Core Documents (216)

End Class 5

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-*Promissory Notes*: Note on Promissory Notes (218); Note on How to Read the Case (219); MOORE V. BANK MIDWEST (220); Notes (223); Sample Promissory Note (224); NOTES AND QUESTIONS (227)

-Note on Ownership of Promissory Notes (410, in Chapter 8); Cadle Co. v. Errato (412); Note 3 (414); Note on Holder in Due Course (414); WILSON V. TOUSSIE (416); Notes 1-2 (421)

-*Deeds*: Note on Deeds (228); THOUGHT PROBLEM (229); Note on Descriptions (230); How to Read the Case (230); FERRITER V. BARTMESS (231); NOTE 2 (233)

-Ohio Rev. Code Sections (234); NOTES AND QUESTIONS (236); Note on Covenants (238); ROWE V. KLEIN (238); Notes 1-2 (242)

End Class 6

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-SIMULATION EXERCISE 3B (106 & go to <https://caplaw.com/sites/cprop4>, then click on Simulation Exercise 3B) PRAVELKA-DAMANI DEED); DEED FORMS (106-109); NOTE (109)

-*The Mortgage or Deed of Trust*: Note on the Deed as a Finance Document (243); Note on the "Straight" Mortgage (244); NYCTL v. Rosenberger (245); Notes and Diagram on the Deed of Trust Mortgage (245-46)

-How to Read the Case (246); DREYFUSS V. UNION BANK (247); Notes (249)

-Note on How to Read This Document (the Deed of Trust) (252)

End Class 7

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-SAMPLE DEED OF TRUST (254); NOTES (263); NOTE ON DUE ON SALE (263); Note on the Straight Mortgage (264)

B. *Mortgage Foreclosure*

-*The Process*: BANK-FUND CREDIT UNION V. VIVADO (264); Notes (268); Notice Form (269)

-SIMULATION EXERCISE 5B (271 & go to <https://caplaw.com/sites/cprop4>, then click on Simulation Exercise 5B)(TRUSTEE'S SALE P-D PROPERTY)

-*The Equity of Redemption*: Note (271)

End Class 8

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-How to Read the Case (272); EMANUEL V. BANKER'S TRUST (272); Notes (274); Note on Clogging (275)

-Texas Statutes (Photocopied Supplement)

-*Wrongful Foreclosure*: HOLM V. WELLS FARGO (276); Notes (279); Note 3 on Adams case (photocopied supplement)

C. *Liens That Arise by Operation of Law: The Vendor's Lien and Construction Liens*

-Text on Vendor's Lien (281); Bolen v. Bolen (282); NOTES (283)

-Lee's Home Ctr v. Akins (284) & Notes 1 & 3

End Class 9

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D. *Sale of Mortgaged Property: Assumption and Subject-to Sales*

-SIMULATION 5C (285 & Go to <https://caplaw.com/sites/cprop4>, then click on Simulation Exercise 5B)(ASSUMPTION SALE, DAMANI-ALLRED)

3. ***Real Estate Transactions, Part III: Title Assurance***

A. *Title Requirements in Purchase Agreements*

-Note (287); CONKLIN V. DAVI (288); Notes (289)

-Note on Texas Custom of Contracting (photocopied Supplement)

B. *Public Recording Acts: Race, Notice, and Race-Notice Types*

-Note (290)

-Notes and DIAGRAMS (301-02)

C. *The Title Search and the Chain of Title*

-Note on Remote Purchaser & Diagram (302-03)

-Ellingsen v. Franklin County (303)

-Note on Indexing (305); Note on Chain of Title (306); In re Dlott (308); How to Read the Nally Case (309); BANK OF NEW YORK V. NALLY (311); Notes (315)

End Class 10

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D. *Title Insurance*

-SONNETT V. FIRST AMERICAN TITLE (319); Notes and Questions (321);

-Note on Extra- Contractual Liability (322); Somerset Savings Bank v. Chicago Title (323); Notes (326)

-NOTE ON THE TITLE POLICY (327); AMERICAN LAND TITLE) ASS'N POLICY (329); NOTES (336)

-Note on Third Party Liability (337)

End Class 11

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E. *Curing Title*

-Note (339); SIMULATION 6A & B (340, & go to <https://caplaw.com/sites/cprop4>, then click on

SIMULATION 6A and SIMULATION 6B) (COUNSEL DAMANIS; THEN LETTER)

F. *The Business of Law*

-Text (340); Morgan, Client and Public Relations (340)

4. ***Real Estate Transactions, IV: Closing, Termination, Remedies***

A. *The Closing*

-Notes (347)

B. *Termination Short of Closing*

-Note on Clauses (348); THOUGHT PROBLEM (349); PENDLETON V. WITCOSKI (349); Notes (353)

C. *Functionality v. "Plain English"*

-Note (353); Closing Statement (354-55); Note and Article (354-57); NOTES 1-3 (357)

D. *Destruction before Closing*

-Hillard v. Franklin (358); NOTES AND QUESTIONS (359)

E. *Contract for Deed*

-Note (361); Kaufman Bros. v. Home Value (361)

End Class 12

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F. *Damages as a Remedy*

-For Buyers: Note (364); HARRISON V. MCMILLAN (366); NOTES AND QUESTIONS (370)

-For Sellers: Fogarty v. Palumbo (372); Note on Valuation (372); Note on Restrictions on Remedies (373)

-Liquidated: RAVENSTAR V. ONE SKI (373); Notes

G. *Title Litigation*

-Note on Equity (377); Note on Lis Pendens (378); Notes on Specific Performance (378); Notes on Rescission & Reformation (379)

-Notes on Lis Pendens (387)

-Texas Rules on Trespass to Try Title, in photocopied Supplement (skim these, only to obtain a general sense of their contents)

End Class 13

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***Classes 14, 15, 16: A Concrete Example of a Complete Real Property Transaction***

-Reconsider the Simplified Road Map (131: Big Picture)

-CRUMP & CURTIS, THE ANATOMY OF A REAL PROPERTY TRANSACTION (spiral bound photocopy) (concentrate on questions in notes). This little book

will expose you to the realities of real property transactions: the documents, methods, customs, and terminologies that appear in the casebook. The professor will cover most of the documents and will call on students for roughly half of the questions in the notes.

End Class 16

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***5. Land Use Regulation: From Zoning to the Environment***

A. *Euclidean Zoning (with Review)*

-The Concept: Note (514); Standard Zoning Act (518)

-Politics: Standard Zoning Act (535); NOTES AND QUESTIONS (537)

-The Houston Difference: NOTES AND QUESTIONS ON DOING WITHOUT ZONING (538)

B. *Variances and Non-Euclidean Zoning*

-Notes on Flexible Zoning (540)

-Note on Variances (549)

- C. *Presentation to a Zoning Authority*  
-SIMULATION 10A (553), & go to <https://caplaw.com/sites/cprop4>, then click on SIMULATION EXERCISE 10A) (STADIUM ZONING)
- D. *Subdivision Regulation*  
-Notes on Subdivision (554); Kaufman v. Commission (555); NOTES ON EXACTIONS (561)  
-PROBLEM 9B (in ch. 9, 489-98) (BALL DEVEL. EXACTION)

End Class 17

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- E. *Regional Planning*  
-Note on Extraterritorial Jurisdiction (572)
- F. *Environmental Regulation*  
-Note on CERCLA (572); PENNSYLVANIA DEP. ENVIRONMENT V. TRAINER (575)  
-Note on Impact (577)

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**6. Easements, Covenants, Etc.: Private Land-Use Controls**

- A. *Easements: Creation*  
-*Easement Litigation Problem*: SIMULATION 11A (610 & go to <https://caplaw.com/sites/cprop4>, then click on SIMULATION EXERCISE 11A) (CROSS-EXAM, DEL TORO ACCESS)  
-*Easement Creation Problem*: SIMULATION EXERCISE 11B (621 & go to <https://caplaw.com/sites/cprop4>, then click on SIMULATION EXERCISE 11B) (WHEELER EASEMENT DEEDS)

End Class 18

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- B. *Covenants That Run with the Land*  
-*Real Covenants*: Klefstad Co. v. New Boston (625)  
-*In Business Developments*: Note (632); Tippecanoe Associates v. Kimco (633)
- C. *Neighborhood Governance through Covenants*  
-*Architectural Approval*: Note (646); RAINTREE HOMEOWNERS ASS'N V. BLEIMANN (648); Note 1 (651); NOTE 5 (653)  
-*Assessments and Liens*: REGENCY HOMES ASS'N V. EGERMAYER (655); NOTES 1, 4 (656-58); Newspaper Article (658) & Notes (659)

End Class 19

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**13. Landlord & Tenant, Part I: Modern Regulation**

- A. *Implied Covenants of Quiet Enjoyment and Habitability*  
-Note (823); Notes (824); PFEIFLE V. TANABE (825); Notes 1-4 (828)  
-Note on Commercial Habitability (839); Gym-N-I Playgrounds v. Snyder (840)
- B. *Landlords' Remedies for Tenants' Breaches*  
- Note 3 on Mitigation (844); Austin Hill Country Realty v. Palisades Plaza (844) and Notes; STONEHEDGE SQUARE V. MOVIE MERCHANTS (848); Notes (849); Note on Legislative (851)  
-Notes on Self-Help (851); NOTE ON EVICTION (853); Texas Statutes and Rules on Forcible Entry & Detainer (photocopied Supplement) (skim these, to have a general sense of their contents)

**14. Landlord and Tenant, II: The Lease as a (Private) Conveyance and as a Contract**

- A. *Different Types of Tenancies*  
-Note on Tenancy Types (741); MILLER & DESATNIK V. BULLOCK (742); Notes on Statute of Frauds (747)

End Class 20

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- B. *Transfer of the Leasehold: Assignment, Sublease, Subordination, Attornment*  
-Note (748); Note on How to Read the Case (748); Kendall v. Earnest Pestana (750); California Code (755); TRINITY PROFESSIONAL PLAZA V. METROCREST (756)  
-Note on the Difference between Assignments & Subleases (759); Bob Ferstl V. Budget (760)  
-Notes [C] (761); Note on How to Think about the SNDA clause (763); MISCIONE V. BARTON DEVELOPMENT (765) and Notes (768)
- C. *The Premises: Use, Occupation, Continuous Operation, Physical Quality*  
-Keydata Corp. v. United States (770)

End Class 21

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- OKLAHOMA PLAZA INVESTORS V. WAL-MART (773); Oklahoma Plaza v. Wal-Mart (reversal) (776); Notes (777)  
-Wesson v. Leone Enterprises (781); NOTES (784)  
-FORTIS FINANCIAL V. FIMAT (785) & Notes 1-2 (788)  
-Cramer v. Balcor Management (791); NOTES (791)
- D. *Rent Clauses*  
-Note on Variations (794); How to Read the McLaren Case (795); UNITED STATES EX REL GOODSTEIN V. McCLAREN (796); Notes (802); In re Adoption of a Prohibition (803)

End Class 22

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- Note on Holdovers (810)
- E. *The Lease Instrument*  
-Note on Residential Leases (814)  
-Note on Commercial Leases (821); SIMULATION EXERCISE 13A (821 & go to <https://caplaw.com/sites/cprop4>, then click on SIMULATION EXERCISE 13A) (NEGOTIATE CARR-MERTZ LEASE

End Class 23

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**15. Possible Coverage – Complex Commercial Transactions: Purchase and Sale of an Office Building, Retail Center, or apartment Building** (handout materials)

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***Professor's Policies in Assigning Reading***

1. *I try to make assignments for the semester as a whole. This policy decreases flexibility, but it assists students in planning.*
  2. *On some occasions, difficulties in understanding will prevent finishing an assigned reading. In the next class, we'll pick up where we left off and catch up. The professor then must allow for decreased student memory of past material. Also, Problems sometimes have to be postponed.*
  3. *I try to avoid a "crunch" of abnormally long assignments at the end of the course.*
  4. *In fact, if possible, I arrange lighter assignments for the last hours of the course.*
  5. *I try to keep assignments reasonable in length and to disclose estimates of pages per class hour.*
  6. *Please observe the difference between emphasized readings (capital letters on the Syllabus) and lesser intensity for other readings. This difference should make your time usage for the assignments more efficient.*
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## **Sexual Misconduct Policy**

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d7.pdf> (antidiscrimination)

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d8.pdf> (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

## **Names and Pronouns**

Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun, or if you have concerns about how I or your classmates address you.

## **Syllabus Changes** (required for all courses)

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible by email to the class.

## **Attendance via Zoom**

This class may be taught via this Zoom. The link will be emailed to the students directly. If using Zoom:

- You must be logged in with a computer (not a phone) with your video camera turned on and microphone muted (note: the class will be set up to mute you automatically upon entry). Video must stay on for the entire class.
- You must identify yourself with your first and last name in the Zoom videoconferencing software.
- You must present yourself professionally in the video stream, both in attire and in conduct.

## **Recording of Class** (required for all courses)

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

## **Required Daily Health Self-Assessment** (required for any face-to-face class component)

Your (physical) presence in class each session means that you have completed a daily self-assessment of your health/exposure and you: 1) Are NOT exhibiting any Coronavirus Symptoms; 2) Have NOT tested positive for COVID-19; and 3) Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19. If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see COVID-19 Diagnosis/Symptoms Protocols for what to do if you experience symptoms and Potential Exposure to Coronavirus for what to do if you have potentially been exposed to COVID-19.

## MY POLICIES FOR CONDUCTING CLASS PROFESSOR CRUMP

1. Welcome to the Course in Property! This is a wonderful subject to study: fascinating, challenging and practical. It also will be a demanding course, but your hard work will be rewarded when you practice law. It is necessary to implement policies or rules for such a class. Therefore, please understand the businesslike tone of the following items.
2. You Need Not Communicate With the Professor Concerning the Reasons for Your Absences. If you are absent, I always assume you have a good reason. As long as you comply with the law school's attendance requirements, I don't need to know the reason. Exception: See Item 10 below!
3. You Need Not Communicate With the Professor Concerning Your Unpreparedness. If you are unprepared on a given day when I happen to call on you, my approach is to go ahead and call on you. The (relatively mild) sanction for occasional unpreparedness is that you must stand up and admit it. For this and other reasons, I request that you not inform me about unpreparedness. I assume (and I think your classmates assume) that even good students may be unprepared occasionally. (I may, however, call on you again in the near future, and I do begin to take unpreparedness more seriously if it occurs repeatedly.)
4. Hold Up Your Hand Before Talking; Realize That the Professor Can't Always Recognize Everyone and Must Determine When We Must Move Along. This will be a large class, and there is no responsible way to teach it without covering a lot of ground. I have to consider the need to cover the material and the need to bring a variety of students into the discussions. Therefore, please hold up your hand before speaking out. Please understand if we have to cut off discussion and move on.
5. SPEAK LOUDLY When You Are Called On. Every student must speak loudly enough for everyone else to hear. Conversely, one of the skills you should learn is how to stand up in a group of people and speak extemporaneously and persuasively on difficult subject matter. One of the habits that will most annoy your classmates is speaking so that they have to strain to hear you. Even if you're not sure of the answer, it's best if we all can hear you.
6. Out-of-Class Assignments. Every student, at some point, will be given a practical, out-of-class assignment that will involve document analysis, document preparation, negotiation, or the like. These outside assignments will be discussed in class.
7. Reading The Anatomy of a Real Property Transaction (Spiral-Bound Photocopy). We shall use the paperback book, The Anatomy of a Real Property Transaction, in addition to the casebook. We shall discuss the full Anatomy book. I think you will find this book valuable. It will show you something real: all of the essential documents in an actual land purchase.
8. Unconventional Subjects. Law school usually leaves three areas uncovered: practice methods, analytical methods, and personal management. This course will attempt to cover these gaps at least to some degree. The course will seem "unconventional," naturally, at these times.
9. Attendance. It is required that you comply with the law school's attendance requirements, which mandate 80% attendance. I do not take attendance daily, and the enforcement of the rule is by the honor code on the examination. You certify compliance by taking the examination.
10. Seating Chart. Please sit in your assigned seat. Even if you come in late or leave early for emergency reasons, occupy your assigned seat.
11. Disability. Any student with a disability requiring accommodation should explain both to the professor (except as to the exam, for which accommodation is to be arranged through the law school administration).

### **Counseling and Psychological Services (CAPS)**

CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. [www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html).