

**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

REMEDIES SECTION 303C – SPRING 2014

Syllabus and Policies

Professor Edith R. Warkentine

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By appt. scheduled directly with Professor: W and

Required Book

Shoben, Tabb, and Janutis, *Remedies: Cases and Problems* (5th ed.)

Recommended Book

Tabb and Shoben, *Remedies in a Nutshell*

Course Coverage

Remedies is a three-credit required course. It introduces students to remedies in civil cases. The course will provide an overview of three major types of remedies: damages, equitable remedies (the injunction and specific performance), and restitution. In most cases, we will discuss remedies in the context of a tort or a breach of contract lawsuit. You will learn the range of remedies available in specific cases and how to select the remedy or remedies that best serve a client's interests.

Course Methodology and Objectives

The course methodology will include the use of cases and problems. The authors of the casebook begin the discussion of each major concept with a "model case." The model cases are simple examples illustrating how a concept works. They should aid you in understanding the more complex issues that arise in the cases and problems that follow.

The Remedies course has a number of major objectives. The first goal is to provide the student with a firm grounding in the law of remedies. You will learn the fundamentals of damages, equitable remedies, and restitution. These are important concepts that attorneys working on the civil side encounter in everyday practice. A second goal is to enhance the student's ability to apply the remedies in specific fact situations. The third goal is to enable the student to make a written assessment of remedial choices in a coherent, organized way.

Examinations and Grading

Each student will receive a numeric grade based upon (1) class participation; (2) two **take home** “midterm” examinations, which will be explained in greater detail in class; and (3) a closed-book three-hour final examination given at the end of the semester. The final examination will consist of both multiple-choice and essay questions. **Please note the dates of the two take home examinations – To accommodate religious observances, you will have a 24 hour period within which to take each examination. Each actual examination should not take more than two hours to write. Plan your schedule for those weekends with these dates in mind. If you have any personal conflicts, please see Dean Keller to make appropriate arrangements.**

Attendance and Participation

Please read the following information very carefully.

To excel in this class, students must attend class regularly, prepare written case briefs and/or written answers to problems, and participate in discussions. **Your course grade will be reduced for each time you are not prepared and you are considered to be absent for that class.** There is no “free pass” policy for this course.

A student can be absent no more than **two** class sessions. **A student who exceeds the limit will be dropped from the course and receive a failing grade.** You are responsible for keeping an accurate count of your absences.

Promptness

Classes will begin promptly at the scheduled time. Please be in your seat for the start of the class. Students who arrive late disrupt the learning process for others. If you are unavoidably late, please enter quietly through the rear entrance and take a seat in the back of the room. Once class begins, please do not leave the room except for emergencies or medical reasons.

Cell Phones and Pagers

Disable cell phones and pagers and store them before class begins.

Food and Drinks

Please do not bring food into the classroom. You may have drinks in covered containers.

Commercial Outlines

You may not recite from commercial outlines, briefs, or other commercial study aids. If you bring these materials into the classroom, they must be closed at all times.

Computer Use

You may use a personal computer during class **for note taking only**. You may not be on the Internet, check email, play games, etc. In the event that students violate this rule, I reserve the right to prohibit computer use in class. If you use your computer for case briefing and writing notes on problems, please have the document open before we begin discussing the case so as not to waste time bringing it up.

Seating Chart

I will distribute a seating chart early in the semester. Please print your name legibly in the seat of your choosing. This will be your permanent seat. I strongly encourage you to choose a seat near the front of the room. Educational studies show that students who sit near the front benefit most from the classroom experience. Because I randomly select student to recite, your seat choice will not enhance or reduce the likelihood of your being chosen to recite.

Assignments

The following assignments are from the casebook. I will supplement these assignments with additional problems (typically old California Bar Examination questions) in a weekly Study Guide, which will be posted in the Web Course (usually on Tuesday of each week.) Optional: Read the corresponding sections in *Remedies in a Nutshell* for an overview of the topic. **Note: Class coverage of reading assignments is fluid, i.e., we may not always cover all of the assigned material during the scheduled class periods. It is your responsibility to make sure you are prepared for each class. Always review the current assignment before coming to class. IN ADDITION, review the weekly Study Guide posted in the Web Course, for more specific information about the reading assignment for each class and for additional problems for class discussion. The Study Guides, not this list of Reading Assignments, contain the most accurate information about how to prepare for class each week.**

Week **Topic and Assignment**

Week 1 1/13	Introduction to the course; introduction to remedies; v-vii; 2-6; sources of remedial rights, 13-14; consequences of remedy characterizations, 31-32; notes 35-37; notes 1 and 2, 38-39; contract damages: 392-407; sale of goods contracts, 407-419, 427-429, 432-445, 454-455, 463-466, 468-471; land sales contracts, 471-486.
1/20	Holiday: Class Does Not Meet
Week 2 1/27	Limitations on damages: foreseeability, 647-664; certainty, 664-676; avoidable consequences, 676-705.
Week 3 2/3	Tort damages: personal property, 487-518; real property, 519-538; personal injury damages, 545-575.
Week 4 2/10	Adjustments to damages: present value and inflation, 607-619; collateral source rule, 692-698; pre-judgment interest, 624-625, 631-633; tort reform, 603-606.
2/17	Holiday: Class Does Not Meet on Monday; This week ONLY, class meets on Tuesday 2/18
Week 5 2/18	Introduction to equitable remedies for breach of contract; specific performance: entitlement, 90-105, notes 110-111; fashioning relief, 111-124, notes 127-129; sale of goods contracts, 129-134.
	1st Take Home Midterm Examination 6:30 p.m. Saturday, 2/22 – 6:30 p.m. Sunday, 2/23
Week 6 2/24	Equitable defenses: laches and estoppel, 142-153, notes 157-160, 165-168; unclean hands and unconscionability, 168-180, notes 189-190; election of remedies, 190-197, 200-202.
Week 7 3/3	Preventive injunctions: inadequacy of remedy at law, 44-50; irreparable harm, 50-57; balancing interests and practicality considerations, 57-62, 67-72; public interest and tribunal integrity, 72-85; enjoining nuisances, 358-365, notes 370-371, 378-380.
3/10	MARCH 10 -16: SPRING BREAK: NO CLASSES
Week 8 3/17	Interlocutory injunctions: substantive requirements, 203-219; procedural requirements, 232-237; injunction bonds, 243-255.
Week 9	Contempt: criminal contempt, 256-264; civil contempt, 264-270, notes 279,

3/24	282-289, notes 298-299, 300-304.
Week 10 3/31	Unjust enrichment: the concept, 814-830; benefits acquired by agreement or mistake, 830-847, 851-854.
	2nd Take Home Midterm Examination 6:30 p.m. Saturday, 4/5 – 6:30 p.m. Sunday, 4/6
Week 11 4/7	Waiver of tort and suit in assumpsit, 854-861, notes 863-5; constructive trusts, 869-870, note 874-876, 883-887.
Week 12 4/14	Equitable liens, 887-897; tracing, 898-904, notes 907-909.
Week 13 4/21	Defenses: bona fide purchaser and change of position, 909-915; changed position, notes 922-924; volunteers, 924-938.
Week 14 4/28	Review