

WESTERN STATE COLLEGE OF LAW

REMEDIES SECTION 303B – SPRING 2023

Syllabus and Policies

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Required Book

Shoben, Tabb, Janutis, and Main, *Remedies: Cases and Problems* (7th ed.) You *must* have a *current edition* of the casebook and bring it to every class.

Recommended Books

Tabb and Shoben, *Remedies in a Nutshell*. This book gives a very basic overview of remedies. It is written by some of the casebook authors. Any edition will suffice.

Fischer, *Understanding Remedies* (4th ed.) This is a comprehensive hornbook. Some editions, such as the third edition is available as an ebook. Any edition will suffice.

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: equitable remedies (the injunction and specific performance), damages, 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 equitable remedies, damages, 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 students to provide coherent written assessment of remedial choices in preparation for the Bar Exam.

Examinations and Grading

Remedies is a graded course. Your grade will be based on your performance on a midterm and a final examination. The midterm is designed to gauge your understanding of the concepts, this will count as 30% of your total grade. The essays are primarily structured to simulate the California State Bar Exam essays.

Attendance and Participation

PLEASE READ THE FOLLOWING INFORMATION CAREFULLY.

Students must attend class regularly, prepare written case briefs and/or written answers to problems, and participate in discussions. **A student who is not prepared will be considered absent for that class.**

A student in the day section can be absent no more than **four** class sessions. A student in the night section 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.**

Promptness

Classes will begin promptly at the scheduled time. Please be in your seat for the start of the class. If you are unavoidably late, please enter quietly 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

Phones to be on silent mode and **stored** before class begins.

Food and Drinks

Do not eat during class. You may have drinks in covered containers.

Commercial Study Aids

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, chat, text, 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, please have the document open before we begin discussing the case so as not to waste time bringing it up.

Recording

No video or voice recording of class sessions are allowed, unless specifically coordinated and approved in advance.

Seating Chart

I will send around 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 randomly select student to recite regardless of your seat choice.

Time Requirements for Class Preparation and the Study of Remedies

ABA Standard 310 (b) (1) requires that students spend at least two hours of outside study time for every course credit hour. **This means you must devote *at least six hours each week to the study of remedies outside the classroom***. Your class preparation should include the following:

- Carefully read every assigned case and problem in the casebook, including assigned materials before and after each case.
- Produce *detailed written briefs* of every assigned case and accumulate the briefs in a brief notebook. I may require you to provide me with a written copy of your brief notebook.
- Produce written answers to every assigned problem in the casebook.
- Produce written answers to exercises and bar exam questions I may assign.
- Complete practice examinations that I will distribute before the final examination.
- Take the initiative to delve further into topics by doing outside study, especially on topics that interest you.
- Form study groups with classmates for the purpose of learning from one another.
- Visit the professor during office hours to discuss course materials, identify areas with which you are having difficulty, review practice examinations, etc.

Reading Assignments

The following assignments are from the casebook. You should read the entire week's assignment before the first class in that week. **You must brief the cases and answer the assigned problems in writing**. I may assign additional problems that are not in the

casebook. Read the corresponding sections in the recommended books to gain a fuller knowledge of the topics.

<u>Week</u>	<u>Topic and Assignment</u>
1 (1/17/23)	Introduction to the course; introduction to remedies; v-vii; 3-14; 15-24, 27-33; consequences of remedy characterization, 33-49; preventive injunctions: inadequacy of law remedies, 53-61.
2 (1/24/23)	Irreparable harm, 61-69; balancing interests, 70-88; public interest, 88-112.
3 (1/31/23)	Specific performance: entitlement, 113-136 (omit problem on 130); fashioning relief, 137-155 omit 149-152; sale of goods contracts, 155-168.
4 (2/7/23)	Equitable defenses: laches and estoppel, 169-202 (omit problem on 180); unclean hands, 202-228; election of remedies, 228-240.
5 (2/14/23)	Interlocutory injunctions: substantive requirements, 241-268 (omit all problems); procedural requirements, 268-282; injunction bonds, 282-308.

NO CLASS ON TUESDAY FEBRUARY 21, 2023

6 (2/28/23)	Contempt: criminal contempt, 309-310, notes on 314-324 (including <i>In re Stewart</i>); civil contempt, 343-350. Contract damages: 451-460 (omit problem on 459), 465-470; liquidated damages, 523-524; land sales contracts 540-542.
7 (3/7/23)	Midterm Examination.
Week of 3/13-3/17	Semester Break

<u>Week</u>	<u>Topic and Assignment</u>
8 (3/21/23)	Tort damages: personal property, 557-591 (omit all problems); real property, 591-611.
9 (3/28/23)	Personal injury, 625-656; adjustments to damages: present value and inflation, 689-695.
10 (4/4/23)	Limitations on damages: certainty and foreseeability, 725-741; avoidable consequences, 741-749 (omit problem on 749), 750-755; collateral source rule, 755-756.
11 (4/11/23)	Unjust enrichment: the concept, 875-894; benefits acquired by agreement or mistake, 894-908 (omit problem on 908), 911-920.
12 (4/18/23)	Waiver of tort and suit in assumpsit, 920-926; constructive trusts, 936-945, 949-957.
13 (4/25/23)	Equitable liens, 958-968; tracing, 969-977.
14 (5/2/23)	Defenses: bona fide purchaser and change of position, 983-987; changed position, notes on 987-993 (including <i>Alexander Hamilton Life Ins.</i>); volunteers, 996-997. Attorney Fees 1055-1057; Nominal Damages 1093-1094; Declaratory Judgements 1106-1109.
15	Final Examination (date TBD)

Disabilities Services Statement

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities Services Office** assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings,

other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.