

WESTERN STATE UNIVERSITY COLLEGE OF LAW
At Westcliff University

REMEDIES, Section A
SYLLABUS AND COURSE POLICIES – Spring 2023

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A. LEARNING OUTCOMES

Course Level Learning Outcomes:

Students will learn the skills necessary to organize and write appropriate legal analysis for Remedies essay exams and strategies to take Remedies multiple-choice questions. Students will receive training and instruction enabling them to apply knowledge, critical reading, and thinking skills to perform skillful written legal analysis, reasoning, and problem solving as required to succeed in the study of law, the practice of law, and as tested on bar exams.

In particular, students will learn how to:

- (1) Identify and articulate the relevant legal issues raised by the facts;
- (2) Identify legal rules applicable to an issue raised by a set of facts;
- (3) Discern the points of law and fact upon which the case turns;
- (4) Critically analyze the facts in a hypothetical question;
- (5) Distinguish between material and immaterial facts;
- (6) Organize an effective Remedies essay answer of bar passing quality;
- (7) Reflect on, identify, and assess strengths and weaknesses on essay answers;
- (8) Successfully approach and take multiple-choice questions as needed on the bar exam.

Program Level (JD Program) 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.

B. DISABILITY 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."

C. REQUIRED TEXTS AND PROGRAMS

1. Tabb, Janutis, and Main, Remedies: Cases and Problems ("Tabb"), 7th ed. University Casebook Series, Foundation Press
2. Themis U World access for assigned multiple-choice questions

D. EXPECTATIONS FOR OUTSIDE CLASS PREPARATION

While the amount of time you need to set aside for class preparation will vary with the degree of

difficulty of the materials we will be discussing, I would anticipate that you should be devoting a **minimum of six hours of outside of class study time for each week this class meets (3 hours of class a week - 1.5 hours twice a week)**, and often more than that. I include in “preparation time” reading the assigned materials, group study, case briefing and outline preparation, going through the exercises and assignments assigned during and after class, taking practice tests, completing MBE U World assignments, reviewing the PowerPoints from in class, and any other study methods or materials you are utilizing to learning the materials.

Complete each week’s assignments in the column labeled Required Reading PRIOR to class and C&L and other assignments (some prior to class and some after class as indicated in the below assignment chart).

Prepare for class by following the below approach BEFORE each class:

1. First, read the assigned casebook pages and, if assigned for that week, any other materials.
2. Try to answer the Notes or Problems at the end of cases you read in the textbook, if applicable. You may be called on in class to answer these questions.
3. Brief each case you are assigned to read. When we review the cases in class, your briefs should be sufficient that you don’t need to write down everything on the PowerPoints (a good brief would already have this information noted).
4. Review any areas of confusion by consulting other resources if needed. I will post a Remedies outline from my bar prep book to reference (which is a very concise shortened version just to use for reference to clarify confusion if helpful). I also suggest you consult hornbooks or examples and explanations or other practice books to review the materials if you are confused prior to coming to class.

DURING class approach:

1. Do NOT try to write down every word. Your completed case briefs should allow you to make notes and add commentary without needing to write down everything discussed in class since you should have most important details already written in your brief if you are correctly briefing your cases and answering the notes and questions prior to class.
2. Highlight or make a note of key rules and discussion we spend a lot of time discussing in class.
3. Pay attention to examples and hypos as those often form the basis of future exams.
4. Always try to answer the questions being asked in class in your head even if a classmate is the one being called on.
5. Focus on class and don’t allow yourself to get distracted by your phones or the internet or any other distractions in class.

POST-class approach:

1. Review your notes from class while they are fresh in your head. Make a note of any areas of confusion now so you can ask the professor in office hours or after class. Do not be afraid to ask a question if you are confused.
2. Reread any cases or areas of confusion is needed as well as hypos and examples discussed in class.
3. Complete any post-class MBE U World questions, essays, hypos, or other assignments

listed.

4. Create and regularly update an organization tool (flashcards, outlines, approaches, visual charts, etc.) that will help you memorize and synthesize your rules to prepare for exams.
5. Go to office hours if you need help with anything.

F. EXAMS AND GRADING

There will be a graded mid-term exam and a final exam. The mid-term exam will consist of at least one essay question and perhaps several short-answer and/or multiple-choice questions. The final exam will likely contain one or two essay questions, and multiple-choice and/or short-answer questions. The final course grade will be based on a 20% weighting of the mid-term exam, 75% weighting of the final examination, and 5% for timely and full completion of all assignments including U World questions, essays, and any other assignments created on the course webpage (accuracy will not be counted toward your grade for completing assignments; this will be based on a good faith effort and timely completion).

G. CLASSROOM PARTICIPATION

Legal education is a cooperative venture and oral communication skills will be important throughout your professional life. Each of you must be prepared to participate in class on a regular basis. If you have not read the materials, you are unprepared. I will periodically call on students in class at random to describe cases or rules and to answer questions. Even though some students find this method unattractive or intimidating, overcoming intimidating circumstances is an important and time-tested part of the legal education process. And the single most effective way to overcome the intimidation is to be prepared. Also, it is fairly inconsiderate of the time and efforts of your fellow students to come to class unprepared.

PLEASE NOTE, HOWEVER, THAT THERE IS A SIGNIFICANT DIFFERENCE BETWEEN BEING UNPREPARED AND BEING UNABLE TO ANSWER A PARTICULAR QUESTION CORRECTLY. No one knows the answer to every law-related question. An important part of the learning experience is testing your own opinions and conclusions. You will not be penalized for venturing an incorrect answer as long as it is a thoughtful answer based on preparation. An important part of the learning process involves thinking out loud and making mistakes.

H. ATTENDANCE, DECORUM, AND NOTE TAKING IN CLASS

I will take attendance at the beginning of each class by asking you to sign in for the class on a roll sheet. If you are not signed in, you are absent. **IN ACCORDANCE WITH SCHOOL RULES, IF YOU MISS MORE THAN FOUR 1.5 HOUR CLASSES, YOU WILL BE ACADEMICALLY DISMISSED FROM THE COURSE.**

You should be in your seat at the commencement of class to be counted as present for the class. Similarly, you should not leave until the end of class. If you have an emergency that causes you to have to leave during the class, please do so unobtrusively. If you have a disability which prevents you from remaining in your seat during the class, please contact the Academic Dean.

I expect that smart phones and the like will not be seen, heard or used in the classroom. You may use your laptop computer, but it should be open only to course related materials. I know that many students use their laptops to take notes in class. I want to make you aware that studies have shown that students do better on exams when they take notes by hand (the old-fashioned way). Remember that technology is a tool. It cannot replace the wonderful learning tool that is your mind. Do everything you can to make sure that your mind is fully engaged during class, and that even when you are not directly participating in class discussion that you are actively listening and thinking.

I. SEATING CHART

A seating chart will be distributed during one of the beginning classes. Please print your full name **legibly** in the seat you choose for your permanent seat. If you wish to change your seat later, please notify me so that I can make the appropriate change on the chart.

J. OFFICE HOURS

I am delighted to talk with students almost any time. Since the pandemic many students have found Zoom online office hours to be helpful and time efficient. I am happy to have office hours both in person and/or online via Zoom. I am also happy to meet on weeknights or weekends too. Since your schedules all vary, please email to set up an office hour appointment and I will be sure to meet with you at a time convenient for you. I will also hold periodic drop-in office hours both in person and on zoom and will announce those weekly in class and on the course web page (the hours will vary to accommodate varying schedules) and will be in addition to any individual appointments. All in person office hours will be in my office (Room 309). All zoom office hours will be held at the following zoom link:

<https://us06web.zoom.us/j/85998585876?pwd=dTJmMWpPNlIDNU1jWGpHN2paRitMUT09>

Meeting ID: 859 9858 5876

Passcode: 964077

K. WEB COURSE (LEXIS CLASSROOM)

Sometime before the first day of class I will set up a Lexis Web Course for this class. You will then be enrolled in that course and able to access all course materials there. During the semester I will use this web course to send you emails, make class announcements, and post course documents such as this syllabus, in class handouts and PowerPoints, and other documents that pertain to the topics we will study. I will also use the web course to post practice exams. The web course will be important to your success in this class. Please make sure you have access to the site AND that you set up notifications for announcements. You should test your access BEFORE the first day of class. Each class will have a module for assignments and materials before class as well as well as a module for materials distributed during class.

L. READING ASSIGNMENTS (subject to modification)

You should **read the entire week’s assignment before the first class in that week.** This gives us flexibility with moving through various topics within a given week. **You do not need to do any “Problems” in the book** you come across during the reading. If we do the problems, we will do them together in class.

	To do BEFORE Class	Topics Covered In Class	After Class – Homework
Class 1 1/18 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 1-11 (stop at D) • Tabb pp. 15-20 (stop at Problem) • Tabb pp. 23-27 (Jurisdictional Remedy Limitations & Double Recoveries) • Tabb pp. 33-37 (Consequences of Remedy Characterization) 	<ul style="list-style-type: none"> ▪ Introduction to the course ▪ Introduction to Remedies ▪ Remedies Overview 	
Class 2 & 3 1/23 (Mon.) & 1/25 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 557-585 (stop at Problem) • Tabb pp. 591-618 • Tabb pp. 625-642 • Tabb pp. 660-664; 669-673 	<ul style="list-style-type: none"> ▪ Tort Damages <ul style="list-style-type: none"> ▪ Harm to Personal Property ▪ Harm to Real Property ▪ Personal Injury Damages ▪ Damages for Injuries Resulting in Death 	Review Tort Damages.
Class 4 & 5 1/30 (Mon.) & 2/1 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 451-458 • Tabb pp. 460-464 • Tabb pp. 470-480; 482-489 • Tabb pp. 498-512 • Tabb pp. 523-530 • Tabb pp. 540-542 	<ul style="list-style-type: none"> ▪ Contract Damages <ul style="list-style-type: none"> ▪ Expectation Damages ▪ Consequential Damages ▪ Reliance Damages ▪ Incidental Damages ▪ Liquidated Damages 	21 U World Expectation Damages MBE Qs
Class 6 & 7 2/6 (Mon.) & 2/8 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 689-705 • Tabb pp. 706-717 • Tabb pp. 725-756 	<ul style="list-style-type: none"> ▪ Adjustments to Compensatory Damages ▪ Limitations on Compensatory Damages ▪ Collateral Source Rule 	10 U World Limitations on Damages MBE Qs

Class 8 & 9 2/13 (Mon.) & 2/15 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 775-797 • Tabb pp. 831-839; 853-866 	<ul style="list-style-type: none"> ▪ Distress Damages ▪ Economic Loss Damages ▪ Punitive Damages ▪ How to organize & write an effective essay ▪ Remedies Essay Approach ▪ How to create a cheat sheet 	Update outline/flow chart/cheat sheet for Tues. (in person essay in class) – bring to class
Class 10 & 11 2/21 (Tues.) & 2/22 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 875-894 • Tabb pp. 920-926 	<ul style="list-style-type: none"> ▪ Simulated essay (1 hour) and debrief of that essay (30 min.) ▪ Restitutionary Remedies <ul style="list-style-type: none"> ▪ Unjust Enrichment ▪ Torts & Contracts <ul style="list-style-type: none"> ▪ Money Restitution ▪ Replevin 	Upload in class essay
Class 12 & 13 2/27 (Mon.) & 3/1 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 936-957 • Tabb pp. 958-968 • Tabb pp. 969-976; 983-991; 996-997 	<ul style="list-style-type: none"> ▪ Restitutionary Remedies (Equitable) <ul style="list-style-type: none"> ▪ Constructive Trust ▪ Equitable Lien ▪ Tracing ▪ Rescission ▪ Reformation 	12 U World Restitution and Reliance MBE Qus
Class 14 3/6 (Mon.)	Study for midterm	Midterm Review	Study for midterm.
Class 15 3/8 (Wed.)	Study for midterm	Midterm examination (closed book)	
Spring Break – no class 3/13 & 3/15			
Class 16 & 17 3/20 (Mon.) & 3/22 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 241-270 • Tabb pp. 282-291 	<ul style="list-style-type: none"> ▪ Interlocutory Injunctions <ul style="list-style-type: none"> ▪ TRO ▪ Preliminary Injunction ▪ Review midterm 	7 U World MBE Qs
Class 18 & 19 3/27 (Mon.) & 3/29 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 53-100 • Tabb pp. 369-373; 380-385 	<ul style="list-style-type: none"> ▪ Preventative Injunctions <ul style="list-style-type: none"> ▪ Permanent Injunctions ▪ Modern Injunctions ▪ Performance test with injunction as the topic/structure 	Review injunctions.
Class 20 &			

21 4/3 (Mon.) & 4/5 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 113-165 • Update your outlines/cheat sheets with all remedies learned so far. 	<ul style="list-style-type: none"> ▪ Specific Performance ▪ Review Remedies bar exam essays 	<ul style="list-style-type: none"> ▪ Update outline/flow chart/cheat sheet for essay in class next Wed. ▪ 3 U World Specific Performance MBE Qs
Class 22 & 23 4/10 (Mon.) & 4/12 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 169-195 • Tabb pp. 202-214 • Tabb pp. 228-236 	<ul style="list-style-type: none"> ▪ Defenses <ul style="list-style-type: none"> ▪ Latches & Estoppel ▪ Unclean Hands ▪ Unconscionability ▪ Election of Remedies ▪ Simulated essay (1 hour) and debrief and self-assessment of that essay (30 min.) 	Upload in class essay.
Class 24 & 25 4/17 (Mon.) & 4/19 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 309-368 	<ul style="list-style-type: none"> ▪ Contempt <ul style="list-style-type: none"> ▪ Criminal Contempt ▪ Civil Contempt ▪ Review Remedies bar exam essays 	
Class 26 & 27 4/24 (Mon.) & 4/26 (Wed.)	<ul style="list-style-type: none"> • Tabb pp. 1015-1028; 1032-1046 • Tabb pp. 1055-1056 • Tabb pp. 1093-1098 • Tabb pp. 1106-1107 	<ul style="list-style-type: none"> ▪ Jury Trial ▪ Attorney Fees ▪ Nominal Damages ▪ Declaratory Judgments ▪ Review Remedies bar exam essays 	2 U World Jury Trial MBE Qs
Class 28 5/1 (Mon.)	Update remedies outlines and essay approaches, etc.	<ul style="list-style-type: none"> ▪ Final Exam Review ▪ How to Study for Final 	Study for the final exam.
FINAL EXAM	Date & Time TBD		