

## **Spring 2022 Remedies Syllabus and Course Information**

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### **Required Course Materials**

#### Required books:

Douglas Laycock & Richard Hasen, Modern American Remedies: Cases and Materials Concise 5<sup>th</sup> edition (Wolters Kluwer, 2019). [Be sure that the book you buy is both the 5<sup>th</sup> edition and the concise edition. Do not buy the monstrous full edition.]

James M. Fischer, Understanding Remedies, 4<sup>th</sup> edition (Carolina Academic Press, 2021).

#### Optional aids:

Casenote Legal Briefs, Remedies (Wolters Kluwer, 2019)

Quimbee [Remedies](#).

### **Course Objectives & Student Learning Outcomes**

The objectives of this course are for you to understand better (1) the work of trial lawyers including, not incidentally, Frederic G. Levin; (2) the central importance of money as the goal of litigation; (3) the relationship of damages to the payment of lawyers; (4) the source of money to pay damages particularly in tort litigation; (5) the process of collecting money against losing defendants; (6) the relationship of remedies, including the remedies that you have already studied in other courses, to the causes of action; (7) the difference between common law damages and equitable remedies; (8) the nature of equitable remedies particularly injunctions; (9) the difference between restitution and common law tort and contract remedies; and (10) fee-shifting.

We will cover damages, equitable remedies (including injunctions), enforcement of equitable decrees, restitution, and declaratory remedies.

After completing this course, students should be able to:

1. Differentiate among various remedies in litigation;
2. Apply case law and statutory authority regarding the available remedies in a lawsuit;
3. Understand the scope and limitations of damages and injunctions as remedies in civil actions; and
4. Write simply and clearly about the application of remedies to factual scenarios.

5. Do well on the remedies portion of Contracts and Torts questions on the bar exam and, in California, do well on the Remedies questions.

### Reading Assignments

I expect you to read and be prepared to volunteer to discuss all the assigned reading for each class, including all the notes in the casebook. I encourage you to investigate material or sources external to the assigned reading. Would you please add to the class discussion by bringing up things you know from outside the reading? Standard 310 of the American Bar Association's (ABA) standards for law schools anticipates that students will devote two hours of out-of-class preparation for every one credit hour of in-class instruction.

All assignments are in Fischer, *Understanding Remedies*, 4<sup>th</sup> edition and Laycock & Hasen, *Modern American Remedies*, **Concise** 5<sup>th</sup> Edition. I intend to complete our discussion of each reading assignment during a single class period. When we do not entirely complete our class discussion, you should still prepare all of the material for the next assignment in the syllabus. **I will tell you when I change this syllabus during the semester.**

| TOPIC  | Understanding Remedies        | Casebook                                     |
|--|-------------------------------|--|
| 1. Introduction to Remedies and the Rightful Position.                                       | §§ 1.0-4.0                    | 1-7, 9-15                                    |
| 2. Value as the Measure of the Rightful Position   | §§ 7.0-7.7                    | 15-28  |
| 3. Contract Damages  | §§ 6.0-6.5, 8.0-8.8           | Review your Contracts outline about damages. |
| 4. Buyers' and Sellers' Remedies under UCC Article 2.  |                               | Review your Contracts outline about damages. |
| 5. Expectancy and Reliance as Measures of the Rightful Position                              | §§ 6.1-6.2                    | 28-41  |
| 6. Consequential Damages   | § 6.4                         | 41-54  |
| 7. Liquidated Damages  | §§ 180.0-186.0                | 55-69  |
| 8. Avoidable Consequences, Offsetting Benefits, Scope of Liability, and Reasonable Certainty | §§ 13.0-13.72, 8.1, 15.0-15.7 | 69-91  |
| 9. Consequential Damages and Substantive Goals.  |                               | 91-109                                       |
| 10. Tort Damages   | §§ 70.0-75.2                  | Review your Torts outline about damages.     |
| 11. Taxes, Interest, and Present Value   | §§ 17.0-17.5, 16.0-16.3       | 109-131                                      |

| TOPIC   | Understanding Remedies                  | Casebook        |
|---|---|-----------------|
| Death, Pain, and Politics   | §§ 75.2, 73.0-73.5                      | 131-9, 146-162  |
| 12. Punitive Damages: Common Law and Statute  | §§ 2.7, 200.0-204.0                     | 177-191         |
| 13. Punitive Damages: The Constitution  | §§ 205.0-209.0                          | 191-205         |
| 14. Punitive Damages: Contract and Elsewhere  |   | 205-216         |
| 15. Collecting Money Judgments  |   | 672-95          |
| 16. Preventing Wrongful Acts (Preventative Injunctions)                                     | Skim §§ 20.0-28.0,<br>Read §§ 30.0-30.3 | 217-231         |
| 17. Preventing Lawful Acts That Might Have Wrongful Consequences (Prophylactic Injunctions) |   | 232-243         |
| 18. Repairing the Consequences of Past Wrongful Conduct (Reparative Injunctions)            | §§ 36.3-36.4                            | 243-255         |
| 19. The Scope of Structural Injunctions   |   | 255-276         |
| 20. Specific Performance  |   | 318-331         |
| 21. Preliminary or Permanent Relief: The Substantive Law of Preliminary Relief              | § 36.1                                  | 357-71          |
| 22. The Procedural Law of Preliminary Injunctions and TROs                                  |   | 371-85          |
| 23. Declaratory Judgments: The General Case   | § 2.6                                   | 467-81          |
| 24. Quiet Title and Reformation   |   | 492-504         |
| 25. Introducing Restitution—Mistake   | §§ 2.5, 40.0-41.7                       | 505-519         |
| 26. Measuring Restitution from the Innocent   | §§ 42.0-43.3                            | 519-532         |
| 27. Disgorging the Profits of Conscious Wrongdoers  | §§ 44.0-45.0                            | 532-45          |
| 28. Breach of Contract; Rescission  |   | 557-568         |
| 29. Constructive Trusts, Tracing the Property   | §§ 54.0-53.3.3                          | 568-586         |
| 30. Equitable Liens and Subrogation   | §§ 53.0-53.7                            | 592-602         |
| 31. Replevin, Ejectment, Three Kinds of Contempt  | §§ 56.0-57.0, 190.0-194.0               | 613-15, 617-30. |
| 32. Attorneys' Fees   | §§ 210.0-214.0                          | 711-25          |
| 33. Ethical Issues in Fee Awards  |   | 738-751         |
| 34. Defenses and the Rights of Third Parties  | §§ 60.0, 67.0-67.2                      | 602-613         |
| 35. Unclean Hands, <i>In Pari Delicto</i> ,   | §§ 62.0-64.2                            | 763-68          |

| TOPIC                            | Understanding Remedies  | Casebook |
|----------------------------------|-------------------------|----------|
| 36. Estoppel, Waiver, and Laches | §§ 65.0-65.3, 61.0-61.4 | 768-791  |
| 37. Qualified Immunity           |                         | 398-410  |
| 38. Flex                         |                         |          |
| 39. Flex                         |                         |          |
| 40. Flex                         |                         |          |
| 41. Flex                         |                         |          |
| 42. Conclusion                   |                         |          |

### **Attendance**

Attendance is mandatory and an essential part of the course. Per ABA guidance, you are allowed six total absences from the class for any reason (including illness, medical appointments, job interviews, school activities, work tasks, family issues, and the like).

### **Preparing for and Participating in Class**

I expect you to come to every class prepared to volunteer to participate in class, but I never rely on fear as a teaching tool. If you would like to participate but find that you are reluctant to do so, please make an appointment to talk with me to see if we can ease you into participating in class. Some students may realize a need to regulate their class participation. Learning to express legal concepts orally is crucial for every lawyer; my classroom is a place to practice.

### **Covid-19**

The university provost has said that “We also expect people to wear masks in UF buildings.” Consistent with the provost's expectation, I will wear a mask while teaching and when meeting with students. I have been vaccinated twice and received a booster shot.

### **Accommodations**

Students requesting accommodation for disabilities must first register with the [UF Disability Resources Center](#). The Center will provide documentation to the student, who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation. I have no role regarding requests for disability accommodations but am happy to assist however I can.

### **Office Hours and Appointments**

In-person Remedies office hours will be on Tuesdays from 3:00-4:00 pm. Telephone or Zoom office hours will be from 3:00-4:00 pm on Wednesdays. I am happy to make appointments outside of these times as well. During the pandemic, the telephone has been excellent for office

hours. If video will aid your understanding and Zoom has not caused you fatigue, I am happy to meet using Zoom. You can sign up for appointments on the course home page.

### **Title IX**

As a "Responsible Employee" under Title IX, I am a mandatory reporter of sexual violence, sexual harassment, sex discrimination, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence, or sexual exploitation.

### **Academic Honesty**

Academic honesty and integrity are fundamental values of the UF Law School community. Students must understand and comply with the [UF Student Honor Code](#) and the Law School's [Honor Code](#).

### **Recordings of Class Discussions**

I will make audio recordings of class lectures available to you. You may not publish these recordings or lectures.

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A "class lecture" is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To "publish" means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A

student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.” I will refer students failing to follow this rule to the College of Law Honor Code Council and the University's Office of Student Conduct and Conflict Resolution.

### **Grading Information and Grading Scale**

The law school grading policy is available within the [UF Law Student Handbook](#). The following charts describe the specific letter grade/grade point equivalents.

| <b>Letter Grade</b> | <b>Grade Points</b> |
|---------------------|---------------------|
| A (Excellent)       | 4.0                 |
| A-                  | 3.67                |
| B+                  | 3.33                |
| B                   | 3.0                 |
| B-                  | 2.67                |
| C+                  | 2.33                |
| C (Satisfactory)    | 2.0                 |
| C-                  | 1.67                |
| D+                  | 1.33                |
| D (Poor)            | 1.0                 |
| D-                  | 0.67                |
| E (Failure)         | 0.0                 |

### **Final Exam/Final Grade**

The final exam in the course will count for your entire grade. The final examination will be open-book and take-home. I will provide more information on the exam during the semester.

### **Rescheduling Exams**

The Office of Student Affairs handles exam rescheduling and accommodation. See [Exam Delays & Accommodations](#).

### **Student course evaluations**

Students can provide feedback on the quality of instruction in this course by completing [online evaluations](#). Evaluations are typically open during the last two or three weeks of the semester,

and students will receive notice of the specific times when they are open. [Summary results](#) of these assessments are available to students.

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