

**Spring 2022 Remedies Syllabus and Course Information**  
**Professor Thomas D. Russell**

**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 read all of the assignment for the next class. **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
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

TOPIC	Understanding Remedies	Casebook
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, 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 down? Yes!
35. Unclean Hands, <i>In Pari Delicto</i> ,	§§ 62.0-64.2	763-68
36. Estoppel, Waiver, and Laches	§§ 65.0-65.3, 61.0-61.4	768-791
37. Qualified Immunity		398-410
38. 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 for 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 indoors. 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, or other prohibited conduct.

### **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**

Students may not take, circulate, or post photos or videos of classroom discussions, whether in-person, hybrid, or completely online. 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 in class.

### **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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