I. COURSE INTRODUCTION

This course is an introduction to the law of Remedies. It is a three-credit survey course that will introduce contemporary problems in compensatory and punitive damages, injunctions, restitution, declaratory judgments, and contempt. These subjects are tested on many state bar exams.

II. COURSE MATERIALS

A. Required Texts


B. Recommended Reading

- RICHARD L. HASEN, EXAMPLES & EXPLANATIONS: REMEDIES, THIRD EDITION (2012);
- WEAVER, SHOBEN AND KELLY'S PRINCIPLES OF REMEDIES LAW, 2D (2011);
- JAMES M. FISCHER, UNDERSTANDING REMEDIES (2006);

C. TWEN

The TWEN site for this course will contain required reading, including a current copy of the syllabus, writing instructions for the Writing Across the Curriculum Assignment, and supplementary materials for this course.
III. GRADES

Grades are based on a final exam (70%); other written work product (20%); and classroom attendance and participation (10%).

A. Attendance & Participation (10%)

It is incumbent upon you to read the material, come to class well prepared, and participate. Every student who does so will receive ten (10) attendance & participation points; those who do not will receive fewer or no points.

For the purposes of the participation grade, I will take other work commitments and any health issues explained in advance into consideration in evaluating lack of preparation.

Students who attend but are not prepared for class and have not provided a valid reason in advance will be counted absent. Similarly, students who attend, but come in late will be counted absent.

With regard to absences, this course adheres to SIU Law’s attendance policy: attendance is required in all classes. If you accumulate more than nine (9) class absences, you will be subject to the sanctions set out in the law school rules. Those sanctions include mandatory withdrawal from the course. There are no “excused absences” for the purposes of SIU’s rule, or the ABA’s attendance requirement.

B. Writing Exercise (20%)

You will be asked to draft, with a partner, both a research memorandum and a related complaint. The memorandum and complaint are each worth 10% of your grade, for a combined total of 20%.

You will need to divide yourself up into two-person law firms to work on the assignment. You may not discuss your work with anyone other than co-counsel until after you submit your research memorandum and file your complaint.

Additional instructions will be posted to TWEN and provided in class after we have covered related material in the text.
C. The Exam (70%)

The exam will be an in-class, closed-book final exam. Depending on the nature of the exam, you may be provided with a statutory or rules excerpt for use during the exam. Use of any other materials during the exam is prohibited.

The exam itself will likely consist of some combination of multiple choice, short answer, and essay questions. The subject matter will include both material from the assigned readings and material discussed in class. If you have to miss a class for whatever reason, get notes from a friend or acquaintance.

D. Grading

This course follows SIU Law’s grading policy. It will be graded on a curve, and, of necessity, subject to mandatory medians.

IV. CONTACT INFORMATION & OFFICE HOURS

I do not have set office hours. If you have questions, feel free to drop by my office in Room 214. If I have a conflict, we can set up another time then. In the alternative, send me an email and we can set up a time in advance.

I will check email sent to apardieck@siu.edu and respond as soon as I can. My response may not come immediately and it may be brief. The ulnar nerve in my left hand periodically objects to typing.

V. COURSE ASSIGNMENTS

Please note:

- The assignment for the first class is to read and be prepared to discuss pp. 1-15.
- The readings for the topics vary in length and complexity; we will not always cover one unit per class.
- Understanding the material will require reading through the assignment more than once.
- We will not cover every case and note in class. For the purposes of the exam, however, students are responsible for all assigned reading--not just the material discussed in class.
The following is a tentative outline for the course. If you have questions about what to read for the next class, don’t hesitate to ask.

VI. TENTATIVE COURSE OUTLINE

Unit 1  CHAPTER 1.  INTRODUCTION
The Role of Remedies et seq., pp. 1-6

CHAPTER 2.  PAYING FOR THE HARM:
COMPENSATORY DAMAGES
Restoring Plaintiff to the Rightful Position, pp. 9-15

Unit 2  Value as the Measure of the Rightful Position, pp. 16-27

Unit 3  Expectancy and Reliance as Measures of the Rightful Position, pp. 28-41

Unit 4  Consequential Damages, pp. 41-53

Unit 5  Limits on Damages, pp. 53-68

Unit 6  Substantive Policy Goals & The Requirement of Certainty, pp. 94-107

Unit 7  Damages Where Value Cannot Be Measured: Personal Injury, pp. 108-121

Unit 8  The Controversy Over Tort Reform, pp. 121-137

Unit 9  Dignitary and Constitutional Harms, pp. 137-150

CHAPTER 3.  PUNITIVE DAMAGES

Unit 10  Punitive Damages: Common Law & Statute, pp. 171-184

Unit 11  Punitive Damages: The Constitution, pp. 184-195

CHAPTER 4.  PREVENTING HARM: INJUNCTIVE RELIEF
Unit 12  The Scope of Injunctions, pp. 207-221
Unit 13  Preventing Wrongful Acts, pp. 221-232
Unit 14  Repairing the Consequences, pp. 232-244
Unit 15  Ending Complex Violations—The Prison Cases, pp. 257-274

WRITING ACROSS THE CURRICULUM ASSIGNMENT

CHAPTER 5.  CHOOSING REMEDIES

Unit 16  Substitutionary or Specific Relief, pp. 297-311
Unit 17  Specific Performance of Contracts, pp. 312-324
Unit 18  Burden on Defendant or the Court, pp. 324-336
Unit 19  Other Reasons, pp. 337-350
Unit 20  Preliminary or Permanent Relief: Substantive Standards, pp. 350-362
Unit 21  The Procedure for Obtaining Preliminary Relief, p.p. 362-372
Unit 22  Prospective or Retrospective Relief, pp. 373-384
Unit 23  Suits Against Officers, pp. 384-393

CHAPTER 6.  REMEDIES AND SEPARATION OF POWERS

Unit 24  More on Governmental Immunities, pp. 395-406

CHAPTER 7.  DECLARATORY REMEDIES

Unit 25  A.  Declaratory Judgments, pp. 453-466
Unit 26  B.  Quiet Title and the like, pp. 477-488
CHAPTER 8. RESTITUTION

Unit 27 A. Restitution from Innocent Defendants (Mistake), pp. 489-501

Unit 28 Measure Restitution, pp. 501-512

Unit 29 B. Recovering More than Plaintiffs Lost: Disgorging Profits of Conscious Wrongdoers, pp. 512-525

Unit 30 Measure Profits, pp. 526-538

Unit 31 Breach of Contract, pp. 539-551

Unit 31 C. Restitutionary Rights in Specific Property:

Unit 32 Constructive Trusts, pp. 551-564

Unit 33 Tracing Property, pp. 564-576

Unit 34 Equitable Liens and Subrogation, pp. 576-587

Unit 35 D. Defenses and Rights of Third Parties, pp. 587-600

CHAPTER 9. ENFORCING THE JUDGMENT

Unit 36 A. The Contempt Power, pp. 601-613

Unit 37 B. Collecting Money Judgments Execution, Garnishment & the Like, 654-667

CHAPTER 10. ATTORNEY’S FEES

Unit 38 A. Fee-Shifting Statutes, pp. 689-702

Unit 39 B. Fees from a Common Fund, pp. 702-713

Unit 40 C. Ethical Issues in Fee Awards, pp. 713-726

FINAL EXAM, APRIL 30, 2014, 1:15 P.M. TO 4:15 P.M.
VI. FINAL NOTES

Make-Up Classes: Courses that meet on Monday must hold an additional class to make up for the class that will be missed in order to observe Martin Luther King Jr. Day. The “make-up” class for this course will be scheduled either as additional class discussing the writing assignment or as a review class. Specific time, date, and location to be announced.

Disability Disclosure Statement: Students with disabilities are entitled to reasonable accommodations and academic adjustments. See http://disabilityservices.siu.edu/. Any student requiring accommodation because of a disability should contact the Associate Dean’s Office at the law school.

Class Recordings: The Law School may record class sessions; however, absent a request in advance for accommodation, class recordings will not be provided to students. Audio or video recording by any student of any class sessions, absent advance approval of the instructor, is prohibited.

Emergency Procedures: Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.