



REMEDIES SYLLABUS

SIU Law
Professor Andrew Pardieck
Spring Semester 2020, Law 555-3
Tues/Thurs 9:00 a.m. to 10:15 a.m., Rm. 202

I. COURSE INTRODUCTION

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

At the end of this course, students will be able to evaluate fact patterns and assess what remedies come closest to “making the injured party whole.” Students will be able to identify the remedial issues raised in common fact patterns, analyze the same, and offer reasoned conclusions about the legal viability of various remedies. Finally, students will analyze the limitations of legal remedies—when and why the civil justice system fails to make an injured party whole. Students will examine both the limitations inherent in the legal process and those adopted based on public policy.

II. COURSE MATERIALS

A. Required Texts

- DOUGLAS LAYCOCK, MODERN AMERICAN REMEDIES: CASES AND MATERIALS (Concise 4th Ed. 2012).
- Rules and statutes cited in the text, available online or in print from various sources.
- Additional materials uploaded to TWEN.

Note we will *not* use the most recent edition of the text. We will use the previous edition and supplement this reading with cases uploaded to TWEN.

If you have purchased the 5th edition, let me know, and I will provide you with page numbers for the 5th edition corresponding to the assignments outlined below.

B. Recommended Reading

- RICHARD L. HASEN, *EXAMPLES & EXPLANATIONS: REMEDIES* (most recent edition);
- JAMES M. FISCHER, *UNDERSTANDING REMEDIES* (most recent edition);
- WEAVER, SHOBEN AND KELLY'S *PRINCIPLES OF REMEDIES LAW* (most recent edition)
- DOBBS' *LAW OF REMEDIES: DAMAGES - EQUITY – RESTITUTION* (1993);

C. TWEN

The TWEN site for this course contains required reading, including a current copy of the syllabus and supplementary materials for this course.

III. GRADES

Grades are based on a final exam (50%), midterm (20%), CALI assignments (20%), and attendance & participation (10%).

A. The Exam (50%)

The bar exam is closed book. The final exam is closed book, and taken in class. The goal here is to develop the skills necessary to remember and apply legal norms. This doesn't require "memorizing" the rules. It does require understanding and being able to apply the legal standards the courts apply.

The exam itself will likely consist of some combination of multiple-choice, short answer, and essay questions. The subject matter will include both materials from the assigned readings and material discussed in class.

The final exam is cumulative. It will cover all the material assigned during the semester, including material that may have been the subject of a midterm question.

B. Midterm (20%)

You will be asked to complete one writing assignment during the semester. This bar exam-type essay assignment will be an in-class, closed-book MEE-

type examination with space limitations. Additional instructions will be provided in class.

C. CALI Assignments (20%)

There is a CALI LessonLink page for this course. It contains links to thirty (30) lessons. You will receive credit for each lesson you complete with a saved score of over seventy percent (70%). You may re-do the lesson as many times as necessary in order to achieve this score. Additional instructions and access information available on TWEN.

D. Attendance & Participation (10%)

Studies show a strong correlation between attendance and both class grades and GPA. Crede et al., *Class Attendance in College: A Meta-Analytic Review of the Relationship of Class Attendance with Grades & Student Characteristics*, REVIEW OF EDUCATIONAL RESEARCH (June 2010). Class attendance is a better predictor of grades than any other known predictor of academic performance. *Id.*

As a result, the ABA and law school rules prioritize attendance, as does this course. This course adheres to SIU Law's attendance policy: If you accumulate more than six (6) absences, you will be subject to the sanctions set out in the law school rules. Those sanctions include mandatory withdrawal from the course. Neither the law school nor the ABA's attendance rules recognize "excused absences." Save your absences for sick days and work conflicts.

Showing up is important. Showing up prepared and on time equally so. In practice, the courts may sanction you, and your clients may go elsewhere, if you do not. In this class, students who attend, but come in late will be counted absent--you may *not* sign the attendance sheet after it has passed your seat. Similarly, students who attend but are not prepared for class, and have not provided a valid reason for the lack of preparation in advance, will be counted absent.

Student who come to class well prepared and participate will receive up to five (5) attendance & five (5) participation points. Those who do not will receive fewer or no points.

If you have a disability requiring accommodation, please see Disability Support Services. We will follow their guidance regarding attendance, participation, and other accommodations. See the Disability Statement *infra*.

E. Grading

This course follows SIU Law's grading policy. The final exam will be graded on a curve, and, of necessity, subject to mandatory medians.

Note the curve does not measure competency. As with the practice of medicine or other professions, the real test is competency, as demonstrated first by passing the bar exam and then in practice.

F. Laptop Policy

I encourage you to bring your texts, pen and paper to class—and leave the laptop at home.

In April of 2016, the Wall Street Journal reported on one of many studies demonstrating that students who take handwritten notes outperform students who type their notes on a computer. Robert Lee Hotz, *The Power of Handwriting*, WALL ST. J. D1 (Apr. 5, 2016). Students who write their notes out longhand “appear to learn better, retain information longer, and more readily grasp new ideas.” *Id.*

Other studies have shown that using laptops to take notes actually “impairs” learning:

The present research suggests that even when laptops are used solely to take notes, they may still be impairing learning because their use results in shallower processing. In three studies, we found that students who took notes on laptops performed worse on conceptual questions than students who took notes longhand. We show that whereas taking more notes can be beneficial, laptop note takers' tendency to transcribe lectures verbatim rather than processing information and reframing it in their own words is detrimental to learning.

Mueller et al., *The Pen Is Mightier Than the Keyboard: Advantages of Longhand Over Laptop Note Taking*, PSYCHOLOGICAL SCIENCE 1 (May 22, 2014).

G. Mobile Phones

Cell phones *may not* be used in class except when used as part of an instructor-directed class exercise, e.g., completion of an online quiz.

Whether you are using a laptop or cell phone, sending text messages, hanging out on Facebook, and the like distracts you and others around you. Some research also suggests that it makes you stupid. See Rochelle Garner, *Your smartphone makes you stupid, study shows* (June 26, 2017), <https://www.cnet.com/news/smartphone-makes-you-stupid-university-of-texas/>

IV. CONTACT INFORMATION

If I'm in my office and the door is open, you and your questions are welcome. After class is usually a good time to catch me. Or you can email apardieck@law.siu.edu to set up a time. I anticipate holding regular office hours on Wednesdays from 3:00 p.m. to 5:00 p.m.

For those emailing, please note my response may not come immediately, and it may be brief. The ulnar nerve in my left hand periodically objects to typing. Email aside, you have options. If you have questions, by all means, ask.

V. COURSE ASSIGNMENTS

Please note:

- The readings vary in length. Understanding the material will require reading the assignments *more than once*.
- The ABA standards establish a minimum requiring *two hours* of out-of-class preparation for each hour of class.
- The traditional wisdom is that preparing for each hour of class requires at least *three hours* of preparation outside of class.¹
- We will not always cover one unit per class. If you have questions about what to read for the next class, ask.

¹ If we assume three hours, you should plan on spending twelve hours working on civil procedure each week (3 x 3 hours of preparation + 3 classroom hours).

- o Reading assignments for the first week include, for 14-Jan, Intro & Rightful Position, pp. 1-22 and for 16-Jan, Comp Damages Value, Reliance & Expectancy, pp. 22-41.

VI. COURSE OUTLINE

See Syllabus Appendix on TWEN

VII. IMPORTANT DATES

READING DAY, APRIL 27, 2020

FINAL EXAM, MAY 06, 2020, 8:15 A.M. TO 11:15 A.M.

VIII. FINAL NOTES

CLASS RECORDING POLICY: Absent a disability-related accommodation arranged through Disability Support Services (see below), you will not have access to a recording of the class. Absent advance approval of the instructor, audio, or video recording by any student of any class 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 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.

DISABILITY POLICY. Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

SALUKI CARES. The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618453-3135.