Remedies
Law 314-001 (20405)

Prof. Claeys
Spring 2013

Classroom: Hazel 332
Meeting Times: Monday 2:00 – 3:50 p.m.
Exam: Tuesday, April 30, noon

Office hours and whereabouts

My office is on the fourth floor, in the faculty suite, Room 420. My phone number is (703) 993-8247. My email address is eclaeys@gmu.edu. The course also has a TWEN site, and I am reachable on the discussion board of that site.

This semester, I will hold office hours Monday and Wednesday mornings, 9 – 10 a.m. These are “walk-by” hours, meaning that I do not have any other appointments during them and you are free to come in to my office without appointment. (If I need to cancel office hours, I will let you know in advance by email and post a note on the course TWEN calendar.) However, I am happy to schedule appointments if you have a conflict during office hours or if you prefer for other reasons.

Cancellations and make-up classes

At this time, I do not anticipate canceling any classes. If I need to cancel class suddenly due to illness or some emergency, I will have my secretary post notices in the atrium and on the door of Hazel 332, and I will send an email to the class.

Class reading

Reading will vary anywhere from 5 pages per hour (10 pages per 2-hour class block) to 20 pages per hour (40 pages per class block). When I assign readings at the low end of this range, you should assume I’ll parse the assigned readings very closely in class discussion and question students actively; when I assign readings at the high end of this range, you should assume I’ll discuss the materials generally and lecture.

To help you read ahead, the assignments below forecast the reading I anticipate covering for the entirety of the course. However, this forecast is not a promise but a projection. I reserve the right to change the projected reading schedule depending on how fast or slow we are going. If you read more than a class ahead, you assume the risk of reading material I decide to leave on the cutting room floor.
Class expectations

I expect you to be prepared for class. For any case excerpted at any length longer than a page, I expect you to understand the facts, the lawsuit, and the theories of the case adopted in the majority and any separate opinions.

When I or the casebook presents a “squib” case—that is, a case consolidated into a paragraph or so, I expect you to know the facts, the holding, the rationale, and the contribution to the general line of doctrine covered in class.

When the casebook or excerpted cases refer to statutes, I expect you to read them closely enough to answer questions about them.

I expect you to attend class on a regular basis, and the ABA makes it a general condition of accreditation that students not miss more than 2 weeks of class. I keep attendance by having you sign in each day.

If you miss more than 4 class hours (the equivalent of 2 classes), I will not seat you for the examination and to give you a “forced withdraw” grade for the course.

With two exceptions, this is a “strict liability” policy: I do not waive this requirement because you are sick, have a job interview, personal emergency, &c. Except as specified below, you do not need to let me know in advance that you will be absent (and I prefer not to be notified), but by the same token I will not excuse absences in general.

Exception 1: I do not enforce the attendance policy when I need to reschedule class because I am canceling class due to non-GMU commitments.

Exception 2: I also do not enforce the attendance policy if the GMU Provost’s office designates the day a day of observance for a religion and you certify to me that you are a member of that religion. The GMU Provost’s Guidelines require students to provide faculty with reasonable notice of the dates of major religious holidays on which they will be absent. To implement that guideline, I require students, within the first two weeks of the semester, to notify me of the dates for which they are requesting an excused absence for participation in any university-sponsored activity scheduled prior to the start of the semester. If you want me to grant permission for you to record a class for such an absence, you must ask me to do so when you notify me of your absence.

Otherwise, I expect you to self-regulate interviews, personal emergencies, illnesses, and other occurrences that may cause you not to attend class, so that you do not miss more than 2 classes or 4 class hours’ worth of time.

I expect you to prepare for class. I call on students during class, to discuss material that a lawyer should have been able to digest from the reading without much assistance. If I call on you and you are unprepared, that counts as an absence for 1 hour (i.e., ½ of one of your 2 class absences, or 1/4 of the total time you may be absent without going over the limit). If you are unprepared
and wish to avoid getting called on, please notify me before the beginning of class and I will mark you for a 30-minute absence (i.e., 1/8 of the total time you may be absent without going over the limit).

During class, I expect you to be generally respectful to me and your classmates. Imagine the standards of comportment you would use if you were a lawyer, sitting in front of a judge, watching as the judge engages another lawyer in the proceeding. Please treat me and any of your colleagues with whom I am conversing with the same professional courtesy.

Recording classes

I reserve all property rights in my class lectures, presentations, and discussions. As a general rule, I prefer that classes not be recorded. However, I will grant permission in specific cases when a student can demonstrate a special need. For example, as noted above, if you are missing class to observe a religious holiday I will allow you to make arrangements to have a classmate record class. Relevant disabilities may trigger such needs as well. If you think you have such a need, please ask and we can discuss. If you prefer to ask anonymously, please contact Annamaria Nields, Associate Dean of Students, and she can ask me on your behalf.

Grading

The grade for this class will be based solely on a 2 hour examination. The examination will be closed-book.

Course materials

For this course, please acquire a copy of


Please enroll in the TWEN site for this course.

I do not anticipate preparing a course supplement at this time. If I do decide we need supplemental materials I will distribute hard copies in class and (if possible) upload them to the TWEN site.
Course reading

All references are to the Laycock book.

Please note that the readings below are forecasts (that is, for every class after our first class on January 7). I reserve the right to add to, subtract from, restructure or otherwise modify reading depending on how class proceeds.

1. January 7


Pp. 16-27. Value as the Measure of the Rightful Position

2. January 14

Pp. 28-41. Reliance and Expectancy

Pp. 41-53. Consequential Damages

[January 21 – no class]

3. January 28

Pp. 68-80. Avoidable Consequences, Offsetting Benefits, and Collateral Sources

Pp. 80-94. The Scope of Liability

4. February 4

Pp. 108-121. Litigating Damages for Personal Injuries and Death


5. February 11


Pp. 207-221. Overview of injunctive relief, and Preventive Injunctions

6. February 18

Pp. 221-232. Prophylactic Injunctions

Pp. 232-244. Reparative Injunctions
7. February 25

8. March 4
Pp. 324-336. Damages v. Specific Relief: Undue Hardship and Burden on Court
Pp. 350-362. Preliminary Injunctions

   [March 11 – no class]

9. March 18
Pp. 489-501. Restitution: Mistake

10. March 25
Pp. 513-525. Restitution: Disgorging the Profits of Conscious Wrongdoers

11. April 1

12. April 8
Pp. 551-564. Restitution: Constructive Trusts
Pp. 564-576. Restitution: Tracing the Property

13. April 15

14. April 22
Pp. 766-781. Remedial Defenses: The Discovery Rule and Fraudulent Concealment