

Remedies

This course studies the doctrines comprising legal and equitable remedies. Since public law remedies, such as *Bivens* actions and qualified immunity, are addressed in constitutional law and related courses, this course focuses on private law remedies. Topics include the three primary forms of remedies—damages, injunctions, and restitution—as well as related topics of constructive trusts and liens, equitable contract remedies, and equitable defenses, among others. Students will learn the legal, economic, and social factors that have informed the creation and continuing application of remedial doctrines when individuals seek redress for private wrongs in court.

LOGISTICS

1. Class Schedule

The class meets on Monday, 9:50am – 11:50am.

2. Attendance and Class Preparation

Students are responsible for complying with Scalia Law’s regulations regarding attendance. To ensure compliance, I will take attendance. If you are tardy, it will be counted as an absence unless you tell me to mark you as present before I leave the classroom at the end of class. Two tardies will equal one absence.

Students are expected to prepare properly for class, and I will call on students randomly to answer questions about the cases and related readings. Students who are consistently prepared and who actively participate in class discussion may receive a “bump up” in their final grades; conversely, if a student is unprepared for class or acts unprofessionally, then this may be taken into account in determining final grades (see below).

If you are motivated more by carrots than by sticks, there is a general correlation between final grade distributions and class attendance, preparation and participation.

3. Grade

Your grade is based primarily on the final exam.

Since class discussion is important to the learning process, I do take class participation into account in the grading process, and thus final grades may be adjusted upwards or downwards one grade level (e.g., from B to B+ or from B to B-) based on classroom participation. I may raise a student’s final grade for exceptional contributions to classroom discussion. On the one hand, an “exceptional

contribution” is defined essentially in terms of quality, not quantity; on the other hand, contributing only once to class discussion—no matter how brilliant the commentary—is insufficient to warrant a mark-up in your grade. *There is no entitlement to bumping up a grade*; it is only a gratuitous bonus. A student’s grade may be lowered for unpreparedness, unprofessional conduct, or unethical conduct.

4. Final Exam

The final exam will consist of essay and short-answer questions.

The exam is open book, but this does not mean that you should bring everything written under the sun on remedies. Understanding how one prepares for intensive and discrete events, such as licensing negotiations, depositions during discovery, or a court appearance, is as much a part of good lawyering as is learning the substantive law. If you want to bring five commercial outlines and a variety of canned summaries to the final exam, then I will not impede your desire to drown yourself (and your grade) under a mountain of superfluous materials.

5. Technology Issues

TWEN

Students are required to register for the class TWEN site. (For those who may not have used TWEN yet, go to lawschool.westlaw.com, click on the TWEN tab at the top of the page and follow the instructions.) I will post announcements, updates to the syllabus, and supplemental class materials to the TWEN site. If you do not register with your current email address, you risk not receiving class notices, changes to the syllabus, etc. “I forgot to register at TWEN” is never a valid excuse for not being prepared for class.

6. Office Hours

Although I have “official” office hours, I have an open door policy and I am in my office regularly throughout the workweek. (If the door is closed, please knock and let me know that you are there.) Please feel free to stop by whenever you’d like or make an appointment.

My office hours will be held after each class on Monday, end of class – 1:00pm, or by appointment.

7. Learning Outcomes

This course will provide students with the basic rules of remedies, as well as a working knowledge of the policies that gave rise to these legal rules and which affect their continuing application today. Ultimately, students will learn the analytical skills to interpret and understand legal materials, such as court decisions and statutes, and to apply legal rules and policies derived from these legal materials in resolving problems that arise in the adjudication of legal disputes in court.

8. Miscellany

Students are not permitted to record lectures without first obtaining my permission to do so.

I RESERVE THE RIGHT TO CHANGE THE SYLLABUS AND ANYTHING ELSE DISCUSSED HEREIN, except those policies pertaining to attendance and grades, which will be set in stone as of the first day of class.

READINGS

The required text is Samuel L. Bray & Emily Sherwin, *Ames, Chafee, and Re on Remedies* (4th ed. 2024) ["B&S"]. Unless stated otherwise, all page numbers refer to this text.

CLASS SCHEDULE

Students are responsible for all class readings, regardless of whether we discuss them in class. Materials not in the casebook will be posted on TWEN. I reserve the right not to cover some material in the readings in order to stay on schedule, and, as a reminder, you will be responsible for all of the readings listed in the syllabus that we do not cover in class.

Class	Topic	Assignment
1	Introduction	B&S casebook, 1-26 <i>Origins of Law & Equity & Its Merger</i> [TWEN]
2	Damages: General Principles	B&S 29-32, 34-37, 39-51, 59-86
3	Damages: General Principles	B&S 90-130
4	Measuring Damages	B&S 131-174, 241-244
5	Measuring Damages (cont.) & Restitution	B&S 174-190, 241-44, 325-327, 331-338
6	Restitution (cont.)	B&S 339-348, 351-372

7	Restitution (cont.)	B&S 372-413
8	Equity	B&S (general reading) 417-428, 431-433, 437-444 B&S 459-471, 484-492, 567-586
9	Equity: Injunctions	B&S 586-608, 655-670, 630-646
10	Equity: Accounting & Constructive Trusts	B&S 683-686, 711-745
11	Equity: Specific Performance	B&S 747-778, 801-808
12	Equity: Rescission, Reformation & Cancellation	B&S 831-868
13	Equitable Defenses	B&S 897-945