

Remedies  
Law 314-001 (20384)

Prof. Claeys  
Spring 2026

Syllabus  
Current as January 5, 2026

Meeting Times: Tuesdays, Thursdays, 4:00 – 5:25 p.m.  
Examination date: TBD

*Office hours and contact information*

My phone number is (703) 993-8247. My email address is [eclaeys@gmu.edu](mailto:eclaeys@gmu.edu). The course also has a TWEN site, and I am reachable on the discussion board of that site. Please register for the TWEN site; it is my primary medium for group communications with students.

This semester, I will hold office hours Wednesdays, 3-4 p.m. These are “drop-in” hours, meaning that I do not have any other appointments during them. If I need to cancel a Wednesday office hour, I’ll let you know the week before and I’ll provide a make-up office hour that same week.

When I have office hours, you are free to come to my office without appointment. If you want to meet over Zoom, please email me during office hours and I’ll activate my Personal Room on Zoom. However, I am happy to schedule appointments if you have a conflict during office hours or if you prefer for other reasons.

*Course coverage*

A really, really thorough study of remedies covers (1) the civil procedures by which remedies are executed; (2) remedial issues in private civil litigation; (3) civil causes of action for unjust enrichment/restitution; and (4) remedial issues in public civil litigation. I cover all of these issues at least superficially, but I don’t cover them all in depth. (It would take 5-6 credit hours to cover all 4 issues in depth, and we have only 3 hours.) I cover topic (4) only superficially, topic (1) in superficial-to-medium depth, and topics (2) and (3) in depth.

*Learning outcomes*

Learn the basic doctrines for remedies in civil litigation, and demonstrate capacity to analyze legal remedies issues while applying those doctrines.

Learn doctrines for *prima facie* claims of unjust enrichment and restitution, and learn how they relate to parallel doctrines in property, torts, and contract.

Understand the policy arguments made most often by prevailing plaintiffs and losing defendants in controversial remedies topics.

Understand the relations between opinions about policy, the rights to which people are entitled as a matter of substantive civil law, and the remedies doctrines that carry those rights into effect.

### *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 our classroom, and I will send an email to the class via the course TWEN page's email system.

### *Class reading*

Reading will vary anywhere from 7 pages per class session to 40 pages per class session.

### *Class attendance*

Regulation 4.1-1 in the law school's Academic Regulations requires that students attend class at our law school on a regular basis. And it states: "If a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course." As applied to Remedies, AR 4.1-1 requires that students not be absent for more than 5 85-minute class sessions. I do not enforce this requirement when I need to reschedule class due to illness or non-GMU commitments. Otherwise, however, I do follow AR 4.1-1, and I will administer it by circulating a sign-in attendance sheet (if we're studying in person) or by recording an attendance report (if we're studying remotely).

AR 4.1-1 applies to absences "for any reason." In other words, it is your responsibility to keep track of your absences. It is also your responsibility to anticipate possible absences. You may decide you need to be absent to explore professional opportunities, to observe holidays in your religion, or to take care of personal matters. It is your responsibility to limit the number of class days for which you're absent for such reasons, and also to factor in the possibility that you may be absent from class unexpectedly for illnesses or personal emergencies.

With one exception, I do not need to be notified in advance if you're going to be absent. The exception is if you contract a debilitating illness. If you do, please let me know, and please know that I'll probably request a confirming note from medical personnel.

If a student misses more classes than allowed by AR 4.1-1, the student is not eligible to sit for this course's examination. In extraordinary circumstances, I reserve discretion to have a student ineligible for the exam under 4.1-1 perform substitute work equivalent to class attendance ... as long as the student does not miss more than 8 85-minute classes total. Students who believe they are eligible for this exception should petition me in writing and explain why (AR 4.1-2) they "have merit" in their request to substitute work for class lectures missed over the 5-class limit. Generally, I am disinclined to grant AR 4.1-2 exemptions, but I will do so for absences due to debilitating illnesses when documented.

If a student misses more classes than allowed by AR 4.1-1, and does not receive the benefit of an exemption consistent with AR 4.1-2, I notify the law school's administration and the student is not eligible to sit for this course's final examination.

### *Class preparation and participation*

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, the theories of the case adopted in the majority and any separate opinions.

When 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 refers to statutes, I expect you to read them closely enough to answer questions about them.

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 you are unprepared and wish to avoid getting called on, please notify me before the beginning of class. (I prefer emails, at least an hour before class.)

### *Classroom decorum*

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.

I reserve the authority to take actions reasonably appropriate to ensure compliance with the participation and decorum policies discussed in this section. In particular, if a student refuses on several occasions to participate in class when called on, that refusal may justify lowering the student's final grade below the grade earned on the final examination.

This respect and courtesy also extend to dress. Please dress in a manner appropriate for a classroom setting. Some examples: Please be clothed as fully as you'd be if going to an ordinary store or office. Please avoid attending class (in person or virtually) in sleep wear, gym wear, or beach wear. I reserve the authority to ask students to leave class if they are dressed inappropriately (with appropriate repercussions following for class attendance.)

### *Virtual Classroom Management and Logistics*

As we all know, class might need to be taught online, most likely due to inclement weather or an unexpected mass infection. If I'm directed to teach online, we'll go to Zoom. Herewith some policies for online or virtual learning:

- I'll teach on Zoom, on meeting links I'll set up for class.

- On your videoconference platform account, please make sure that your first name, last name, and school profile picture are all uploaded.
- When class is in session, you are expected to have your computer camera ON and your microphone OFF. (Of course, please do turn your microphone on when you participate in class discussion.)
- When you want to ask a question or discuss materials, please send me a message via Zoom's chat function. I prefer that you send a short message that you have a question, and that you ask the question orally. (If you don't, I'll read your question back to the class anyway before answering it.)
- You are encouraged (though not mandated) to use a microphone or earphone/mike headset during class.
- To a large extent, we'll need to play things by ear if we need to go to remote learning for the whole class. That said, it is very likely that, for reading assignments that DON'T already have problems assigned, I'll construct problems in advance of class and we'll discuss those in addition to the materials assigned in the reading schedule below.

### *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. I like to encourage free and frank discussions of class materials, and in my experience the recording of class tends to chill class discussions. However, I will grant permission in specific cases when a student can demonstrate a special need. If you think you have such a need, please inquire.

How you should inquire depends on the nature of the need. If you think you have a disability-related need, please contact GMU's [Office of Disability Services](#). ODS has a process for administering disability-related requests for accommodations, and in that process ODS serves as a go-between between a student-applicant and that student's instructor. If your need is not disability-related, you are free to ask me or ask me anonymously. To make an anonymous request, please contact Annamaria Nields, Associate Dean for Student Affairs ([anields@gmu.edu](mailto:anields@gmu.edu)). Dean Nields will be happy to explain the bases for anonymous recording requests to me.

### *Grading*

The grade for this class will be based exclusively on a 3-hour examination. I do not increase student grades on the basis of class participation. Pursuant to the policies described above on class preparation and participation, I reserve authority to lower student grades for repeated lack of preparation or refusal to participate. The most likely grade-lowering is one-third of a letter grade.

If it is possible for the exam to be administered in person, it will be, and it will be a closed-book closed-note exam. It may not be possible for the exam to be administered in person. If so, it will be administered on line with Exam Pro (or some similar software program if the Records Office surprises me and gives up on Exam Pro). If the exam is online, it will be open-book, open-note.

### *Course materials*

We will rely primarily on a casebook: Douglas Laycock & Richard L. Hasen, *Modern American Remedies* (Aspen 6<sup>th</sup> ed. 2025). ISBN-13: 979-8-8861-4230-3.

Please note: There is a Concise 6<sup>th</sup> edition along with the 6<sup>th</sup> edition. DO NOT buy the Concise edition! If you have any doubt, check the ISBN number.

There will also be a course supplement. It will be available by Tuesday, January 13, in the area outside the faculty suite on the third floor of the law school. (Across from the Records Office.) Please get it before the first day of class. The supplement materials will also be available on the course TWEN site.

### *Reading schedule*

What follows is a list of reading units I hope to cover in this class. We will average slightly fewer than 2 units per class session. All references to “pp.” are to Laycock & Hasen, *Modern American Remedies* 6<sup>th</sup> edition (the not-concise edition).

For our session on January 15, please read units 1, 2, and 3. After that, I’ll make an announcement each Wednesday at the end of class what is assigned for the next Monday and Wednesday. Then, at the end of Monday classes, I reserve the right to modify slightly the assignment for the Wednesday.

Th. Jan. 15.

(Unit 1, for Thursday, Jan. 15): **Ch. 1. Introduction.**

*Reading:* pp. 1-8.

Supplemental assignments: Aristotle, *Nicomachean Ethics*, 2 pages on corrective justice  
Blackstone, *Commentaries on the Laws of England*, 1 page on rights and wrongs

**Ch. 2. Paying for Harm: Compensatory Damages.**

(Unit 2, for Thursday, Jan. 15) A. The Basic Principle: Restoring Plaintiff to His or Her Rightful Position

*Reading:* pp. 9-16.

(Unit 3, for Thursday, Jan. 15) B. Value as the Measure of the Rightful Position.

*Reading:* pp. 16-23 (stop before the Notes on “Value to the Owner”).  
pp. 25-32.

(Unit 4) C. Reliance, Expectancy, and the Rightful Position.

*Reading:* pp. 32-39, 43-45, 47-49.

(Unit 5) D. Consequential Damages

*Reading:* pp. 49-60.

(Unit 6) E. Limits on the Basic Principle

1. The Parties’ Power to Specify the Remedy

*Reading:* pp. 60-75

(Unit 7) E.2. Avoidable Consequences, Offsetting Benefits, and Collateral Sources

*Reading:* pp. 76-93.

(Unit 8) E.3. The Scope of Liability

*Reading:* pp. 93-99 (stop before the Note on Economic-Loss Rules).  
pp. 104-09.

(Unit 9) F. Time and the Value of Money

*Reading:* pp. 138-44, 147-52. Be prepared to discuss the problem on pages 151-52.

(Unit 10) G. Damages Where Value Cannot Be Measured in Dollars

1. Personal Injuries and Death

*Reading:* pp. 155-62 end n.11.  
pp. 173-84.

(Unit 11) G.2. Dignitary and Constitutional Harms

*Reading:* pp. 184-88 end n.1.

Supp.: *Alcorn v. Mitchell*

### **Ch. 3. Punitive Remedies**

(Unit 12) A. Punitive Damages

1. Common Law and Statutes

*Reading:* pp. 207-21.

(Unit 13) 2. The Constitution

*Reading:* pp. 224-31 end n.5, 232-36 end n.3.

#### **Ch. 4. Preventing Harm: The Measure of Injunctive Relief**

(Unit 14) A.1 Preventive Injunctions

*Reading:* pp. 257-60 end n.4, 263-67, 272-75 end n. 3.

Read also 305 n.4.

(Unit 15) A.2 Preventing Lawful Acts that Might Have Wrongful Consequences

*Reading:* pp. 276-89.

(Unit 16) A.3 Reparative Injunctions

*Reading:* pp. 291-301.

(Unit 17) B. Modifying Injunctions

*Reading:* pp. 328-42.

Supplemental material on modifying injunctions in private law decrees.

#### **Ch. 5. Choosing Remedies**

(Unit 18) A. Substitutionary or Specific Relief

1.a The Irreparable Injury Rule

*Reading:* pp. 361-79.

(Unit 19) A.1.b Specific Performance of Contracts

*Reading:* pp. 379-83, 390-96.

(Unit 20) A.2 Burdens on Third Parties or Court

*Reading:* pp. 396-401, 403-10.

(Unit 21) A.3 & -4. More Reasons, and the *eBay* standard

*Reading:* pp. 410-13, 420-28.

(Unit 22) B. Preliminary or Permanent Relief: 1. The substantive standards  
*Reading:* pp. 428-34 end n.6.

I will prepare a supplemental reading with summaries of several representative decisions ruling on stays or preliminary injunctions. I will distribute that supplement later in the semester.

(Unit 23). B.1 (continued). Injunction Bonds.

Pp. 439-46.

(Unit 24) B.2. The Procedures  
*Reading:* pp. 446-59 end n.10.

## **Ch. 7. Declaratory Remedies**

(Unit 25) A. Declaratory Judgments  
*Reading:* pp. 561-70 end n.1, 574-77.

(Unit 26) B., -.C, -.D Other “Declaratory” Remedies (including Reformation)  
*Reading:* pp. 593-608.

## **Ch. 8. Restitution**

(Unit 27) A. Restitution from Innocent Defendants  
1. Why Restitution?  
*Reading:* pp. 609-25.

(Unit 28) A.2. Measuring Restitution from Innocent Defendants  
*Reading:* pp. 625-38.

(Unit 29) B. Disgorging Profits of Conscious Wrongdoers  
1. Why Disgorgement?  
*Reading:* pp. 640-57.

(Unit 30) B.2. Measuring the Profits (Apportionment)  
*Reading:* pp. 657-71.

(Unit 31) B.3. Restitution and Breach of Contract  
*Reading:* pp. 671-80.



(Unit 32) C.1 Constructive Trusts

*Reading:* pp. 686-95.

*Supp.: Riggs v. Palmer*

(Unit 33) C.2 Constructive Trusts: Tracing the Property

*Reading:* pp. 699-714.

When we discuss these materials in class, I'm going to focus primarily on the problems pp. 713-14. Read the other materials as necessary to figure out how to do the problems.

(Unit 34) C.3 Equitable Liens and Subrogation

*Reading:* pp. 714-28.

(Unit 35) D. Defenses and Rights of Third Parties

*Reading:* pp. 730-44.

## **Ch. 9. Ancillary Remedies**

(Unit 36) A.1 Three Kinds of Contempt

*Reading:* pp. 749-62.

(Unit 37) A.2 Abuse and Defiance in Contempt

*Reading:* 763-78.

(Unit 38) B. Collecting Money Judgments

1. Execution, Garnishment, and the Like

*Reading:* pp. 818-34.

(Unit 39) B.2 Coercive Collection of Money

*Reading:* pp. 834-47 end n.7.

(Unit 40) B.3 Preserving Assets Before Judgment

*Reading:* pp. 849-65.

## **Ch. 11. Remedial Defenses**

(Unit 42) A. Unconscionability, Unclean Hands, In Pari Delicto, and Abuse of Right

*Reading:* pp. 917-25, 928-34.

Supp.: *Edwards v. Allouez Mining Co.*

*Bradford v. Pickles.*

(Unit 43) B. Estoppel and Waiver

*Reading:* pp. 934-47.

(Unit 44) C. Laches and Limitations (class 1)

*Reading:* pp. 948-62.

(Unit 45) C. Laches and Limitations (class 2): Limitations, discovery, and fraudulent concealment. *Reading:* pp. 964-78.