

## ACADEMIC COURSE SYLLABUS

<b>COURSE TITLE:</b>	<b>REMEDIES</b>	
<b>COURSE NUMBER:</b>	LAW 801A	Remedies - 1st semester of two-semester course*
	LAW 801B	Remedies - 2nd semester of two-semester course*
	LAW 801A/B*	Remedies
	* Denotes all non-severable, two semester courses. Both semesters must be successfully completed to receive final A/B course grade.	
<b>UNITS:</b>	Fall Semester: 45 hours-3 units, Spring Semester: 30 hours-2 units Students must complete both semesters to earn the 5-unit final course grade after completion of both semesters.	
<b>COURSE TYPE:</b>	Required	
<b>PROFESSOR(S) NAME:</b>	Hon. Allan D. Hardcastle	
<b>PROFESSOR CONTACT INFO:</b>	Contact by telephone : 707-521-6724 or by email: <a href="mailto:ahardcas@sonomacourt.org">ahardcas@sonomacourt.org</a>	
<b>SCHEDULE:</b>	Two-semester class: Fall 2014, Tuesdays 6-9:00 pm, Room # 103 and Spring 2015, Tuesdays 6-8:00 pm, Room # 103	
<b>PREREQUISITES:</b>	Completion of third-year required coursework (or if an Accelerated Student, concurrent enrollment in third-year courses).	
<b>COREQUISITES:</b>	None	
<b>TEXTS AND MATERIALS:</b> (Identification of any texts, materials and references used throughout the course.)	<p><b><i>Modern American Remedies: Cases &amp; Materials, 2010 Edition;</i></b> Douglas Laycock; Wolters Kluwer; ISBN #978-0-7355-7201-0</p> <p>Supplement: <a href="http://www.aspenlawschool.com/books/laycock">www.aspenlawschool.com/books/laycock</a> further detailed directions to: <a href="http://www.aspenlawschool.com/books/laycockmodernamericanremedies/custom2materials/Supp2013.pdf">http://www.aspenlawschool.com/books/laycockmodernamericanremedies/custom2materials/Supp2013.pdf</a></p> <p>Readings or other assignments, in addition to those listed, may be given from time to time during the year.</p>	
<b>COURSE DESCRIPTION:</b>	General scope of remedies; principles governing general use of equitable remedies; general scope of interpleader, declaratory relief (and related remedies), constructive trusts, and equitable liens; principles governing use of and defenses to specific performance and injunctions; equitable conversion; technical aspects of injunctions; damages.	
<b>COURSE OBJECTIVES / ANTICIPATED LEARNING OUTCOMES:</b> (Description of what students will be expected to know and be able to do at the end of the course. What skills or knowledge will be gained by the end of the course.)	<p>Remedies is an excellent review course that complements and builds on most of the required substantive Law School courses. Its specific purpose, however, is to develop a solid understanding of the principles underlying available remedies in law and equity, to develop a working knowledge of the practical application of those principles, as well as of the remedies that are available in specific substantive law areas.</p> <p style="text-align: center;">Students must demonstrate a minimum level of competency for an attorney practicing in California regarding available forms and measures of damages in particular civil cases, and with regard to the</p>	

accepted requirements for obtaining, deploying, and opposing the various forms of traditional equitable (non-monetary) relief, from temporary and permanent injunctions and TROs, to rescission and reformation.

Students must demonstrate that they possess a minimum level of knowledge and understanding to successfully obtain a passing grade on California Bar Examination questions involving what the Committee of Bar Examiners has designated as the “Remedies” subject areas.

Students will learn how to locate source materials for all of the subject areas under the general penumbra of “Remedies”, from the discrete rules on monetary compensation through general and special damages, to the forms of “irreparable injury” which will entitle a client to qualify for injunctive relief, etc.

Students will also learn how to conduct particularized research on all aspects of “Remedies” relief; and, how to draft pleadings seeking temporary injunctive relief and restraining orders; how to structure claims for rescission and/or reformation; and, how to structure a claim for specific performance of a contract, among other “equitable” forms of relief.

Students should expect to spend a minimum of two hours/per hour of instruction time on assigned readings and briefing cases. For example, a 3-hour class would require at least 6 hours of outside preparation time per week.

**FORMAT OVERVIEW / METHOD OF INSTRUCTION** (Description of how the course will be taught, including breakdown of lecture, practicum, etc.)

The course materials contained in the assigned case books will be presented in a lecture discussion and Socratic dialogue method format.

Students are to brief in advance of class all of the assigned cases from the casebook, **including** those featured in the text “Notes” between the case extracts. Students are expected to be fully prepared on each case or other text materials included in the assignments, for each class.

**EXAMS:**

The mid-term exam will cover Syllabus subjects described in the WEEK 1 through WEEK 14 assignments.

The cumulative final exam will cover all course assignments from both semesters.

Students will be expected to identify all the issues that are raised by the question, and demonstrate an understanding of the applicable law by applying that law to the specific facts of the question. It will not be sufficient merely to identify issues, or to generally discuss abstract legal principles or doctrines.

Exams begin promptly at 6 p.m. Students must take the examination as scheduled. In an emergency or a special circumstance, a delayed exam may be necessary. “Emergency” is defined as a serious illness

	<p>or injury to the student or a member of his or her immediate family. Special Circumstances are defined as other situations that, in the opinion of the Dean, are sufficient to warrant delay in taking examinations. <b>Any student taking a delayed examination <u>must have the prior written approval of the Dean.</u></b> No examination may be taken <u>prior</u> to the day of the regularly scheduled examination. If delayed examinations are approved by the Dean, <u>a fee of \$75 will be charged for each such exam.</u> Failure to complete an exam is not sufficient reason for a late or re-take exam.</p>
<p><b>GRADING / ASSESSMENT CRITERIA/CLASS POLICIES:</b></p>	<p>Empire College uses the following grading system:  <u>Numerically graded classes:</u>  90 – 100 A Outstanding  80 - 89 B Superior  70 - 79 C Satisfactory  65 - 69 D Unsatisfactory  64 and Below Failing/No Credit</p> <p>Only numeric grades in required courses are used to calculate grade point average.</p> <p>The final course grade will be determined by (i) an essay format mid-term exam (weighed at 40% of the total) (ii) an essay format final exam (weighed at 60% of the total), and (iii) the quality of class participation at the sole discretion of the instructor may be used to enhance a student’s overall score. The mid-term exam will cover Syllabus subjects described in the WEEK 1 through WEEK 14 assignments. The final exam will cover all course assignments from both semesters.</p>
<p><b>ATTENDANCE:</b></p>	<p>Regular and punctual attendance is essential for the successful completion of the course. Students should plan to attend every class. Students must attend a minimum of 80% (12 of 15 classes in Fall and in Spring) of the class sessions during each semester.</p> <p>General policy information: Roll will be taken at each class. Class attendance in person is of particular importance in learning the language and concepts of the law. Make-up classes will be scheduled on evenings when classes are not usually held, or on weekends, or made up at another regularly-scheduled night session, by staying longer. Class sessions which are delayed or canceled because of holidays or policy of Empire College School of Law, and which are re-scheduled for a different date, are considered regularly scheduled class sessions, not “make-up” classes. A student who has exceeded the absence limits specified in this Syllabus will be automatically dropped from the course. A student who is dropped will be required to repeat the course at its next offering, in order to meet graduation requirements.</p>

<b>ASSIGNMENTS:</b>	<b>FALL 2014</b>
<b>FALL 2014</b>	
<b>Week 1: 9/2/14</b>	<b>INTRODUCTION TO REMEDIES; COMPENSATORY DAMAGES</b> Introduction and the Rightful Position Principle Value as the measure of the Rightful Position Course Casebook pp. 1-35 Prepare cases and notes.
<b>Week 2: 9/9/14</b>	<b>COMPENSATORY DAMAGES, (cont'd):</b> Reliance and Expectancy; Consequential Damages; Limitation of Remedy and Liquidated Damage Clauses Course Casebook pp. 35-85; Prepare cases and notes.
<b>Week 3: 9/16/14</b>	<b>COMPENSATORY DAMAGES , (cont'd)</b> Avoidable Consequences, Offsetting Benefits, Collateral Sources; Scope of Liability; Substantive Policy Goals and the Requirement of Reasonable Certainty  Course Casebook pp. 85-133 Prepare cases and notes.
<b>Week 4: 9/23/14</b>	<b>COMPENSATORY DAMAGES (cont'd)</b> Litigating Damages for Personal Injuries and Death, The Debate over Tort Reform, Dignitary and Constitutional Harms Course Casebook pp.134-187 Prepare cases and notes.
<b>Week 5: 9/30/14</b>	<b>COMPENSATORY DAMAGES (cont'd); PUNITIVE REMEDIES</b> Taxes and Prejudgment Interest, Discounting to Present Value, Punitive Damages: Common Law and Statute Course Casebook, pp. 187-233 Prepare cases and notes.
<b>Week 6: 10/7/14</b>	<b>PUNITIVE DAMAGES (cont'd) ; PREVENTING HARM</b> Punitive Damages: The Constitution, Punitive Damages in Contract; Preventing Wrongful Acts (Preventive Injunctions) Course Casebook, pp.233-280; Prepare cases and notes.
<b>Week 7: 10/14/14</b>	<b>INJUNCTIVE RELIEF</b> Preventing Lawful Acts , Repairing the Consequences of Past Wrongful Conduct; The Scope of Structural Injunctions I-School Desegregation  Course Casebook, 280-325 Prepare cases and notes.
<b>Week 8: 10/21/14</b>	<b>INJUNCTIVE RELIEF (cont'd)</b> Structural Injunctions II-Institutional Reform, Modifying Injunctions, Injunctions and the Rights of Third Parties Course Casebook, pp.336-373, supplement 17-37 (on line) Prepare cases and notes.
<b>Week 9: 10/28/14</b>	<b>CHOOSING REMEDIES</b> Damages or Injunction? Irreplaceability I; Damages or Specific

	<p>Performance? Irreplaceability II, Damages of Specific Relief? Undue Hardship to Defendant and Burden on Court</p> <p>Course Casebook, pp 375-423 Prepare cases and notes.</p>
<b>Week 10: 11/4/14</b>	<p><b>CHOOSING REMEDIES (cont'd)</b></p> <p>Other Reasons for Choosing Damages or Specific Relief; Preliminary or Permanent Relief; The Procedural Law of Preliminary Injunctions and TROs</p> <p>Course Casebook pp.423-470 Prepare cases and notes,</p>
<b>Week 11: 11/11/14</b>	<p><b>CHOOSING REMEDIES (cont'd); REMEDIES AND SEPARTATION OF POWERS</b></p> <p>Prospective or Retrospective Relief: Sovereign Immunity; Personal Capacity suits: Qualified Immunity; Damage Suits Against the Government</p> <p>Course Casebook pp. 470-517 Prepare cases and notes.</p>
<b>Week 12: 11/18/14</b>	<p><b>SEPARATION OF POWERS</b></p> <p>Personal Capacity Suits: Absolute Immunity; Creating Causes of Action; Initiating Criminal and Administrative Remedies</p> <p>Course Casebook pp.517-558 Prepare cases and notes.</p>
<b>Week 13: 11/25/14</b>	<p><b>SEPARATION OF POWERS; PREVENTING HARM WITHOUT COERCION;DECLARATORY REMEDIES</b></p> <p>The Right to Jury Trial; Declaratory Judgments: The General Case; The <i>Younger</i> Rules</p> <p>Course Casebook pp. 558-603 Prepare cases and notes.</p>
<b>Week 14: 12/2/14</b>	<p><b>DECLARATORY REMEDIES; FIRST SEMESTER COURSE REPRISE</b></p> <p>Quiet Title and the like; Semester Review</p> <p>Course Casebook pp. 603-618 Prepare cases and notes</p>
<b>Week 15: Midterm date TBA</b>	<p>3-hour Midterm Examination</p> <p>Exam period on academic calendar. Specific dates will be published during the semester to all students and faculty.</p>

<b>ASSIGNMENTS:</b>	
<b>SPRING 2015</b>	<b>SPRING 2015</b>
<b>Week 1: 1/6/15</b>	<p><b>RESTITUTION</b></p> <p>Introducing Restitution-Mistake; Measuring Restitution form the Innocent</p> <p>Course Casebook pp.619-649, Prepare cases and notes.</p>
<b>Week 2: 1/13/15</b>	<p><b>RESTITUTION (cont'd)</b></p> <p>Disgoring the Profits of Conscious Wrongdoers; Measuring the Profits</p> <p>Course Casebook pp. 649-678</p>

	Prepare cases and notes.
<b>Week 3: 1/20/15</b>	<b>RESTITUTION (cont'd)</b> Breach of Contract; Constructive Trusts  Course casebook pp.678-711 Prepare cases and notes.
<b>Week 4: 1/27/15</b>	<b>RESTITUTION (cont'd)</b> Tracing the Property; Equitable Liens and Subrogation Course Casebook, pp. 711-741 Prepare cases and notes.
<b>Week 5: 2/3/15</b>	<b>RESTITUTION (cont'd); ANCILLARY REMEDIES</b> Defenses and the Rights of Third Parties; The Three kinds of Contempt  Course Casebook, pp. 741-775 Turn in draft injunction (see p. 827) Prepare cases and notes.
<b>Week 6: 2/10/15</b>	<b>ANCILLARY REMEDIES (cont'd)</b> Perpetual Coercion and Contempt of Anticipated Injunctions; The Collateral Bar Rule Course Casebook, pp. 775-804 Prepare cases and notes.
<b>Week 7: 2/17/15</b>	<b>ANCILLARY REMEDIES (cont'd)</b> Contempt and the Rights of Third Parties; Drafting Decrees Course Casebook, pp.805-828 Prepare cases and notes.
<b>Week 8: 2/24/15</b>	<b>ANCILLARY REMEDIES (cont'd)</b> Execution, Garnishment, and the like, Coercive Collection of Money  Course Casebook, pp.829-861 Prepare cases and notes, discuss draft injunction.
<b>Week 9: 3/3/15</b>	<b>ANCILLARY REMEDIES; ATTORNEYS' FEES AND COSTS</b> Preserving Assets Before Judgment; Fee Shifting Statutes Course Casebook, pp. 861-894 Prepare cases and notes.
<b>Week 10: 3/10/15</b>	<b>ATTORNEY'S FEES (PART II)</b> Awards Fee Award in common Fund Cases; Ethical Issues in Fee  Course Casebook, pp.894-924 Prepare cases and notes.
<b>Week 11: 3/17/15</b>	<b>REMEDIAL DEFENSES</b> Estoppel and Waiver Unconscionability; Unclean Hands and <i>In Pari Delicto</i> ;  Course Casebook, pp. 925-956 Prepare cases and notes.
<b>Week 12: 3/24/15</b>	<b>REMEDIAL DEFENSES (cont'd)</b> Laches, Statutes of Limitations, and Continuing Violations; The Discovery Rule and Fraudulent Concealment Course casebook, pp. 957-991 Prepare cases and notes

<b>Week 13: 3/31/15</b>	<b>FLUID-CLASS AND CY PRES REMEDIES</b> Course Casebook, pp. 997-1008 Prepare cases and notes.
<b>Week 14: 4/7/15</b>	<b>A LOOK BACK AND FINAL REVIEW OF REMEDIES</b> Course casebook, pp. 1-1008 Prepare cases and notes Review for Final Exam
<b>Week 15: Final Exam date TBA</b>	2-hour Final Examination – The final exam will be cumulative, covering all course material from both semesters. Exam period on academic calendar. Specific dates will be published during the semester to all students and faculty.

Syllabus is subject to change.