Remedies -- Law 952-02

Information regarding the Instructor

Michael Gilmore, Temporary Faculty  
Spring 2018

Class Schedule:  
MWF — 12:30 to 13:20 — Classroom 325

Cell Phone:  
(208) 949-4120

Office Hours:  
By appointment through e-mail or cell phone

SYLLABUS

Materials


Supplement:  Laycock, Modern American Remedies 2015 Supplement (ASPEN PUBLISHERS)

Course Coverage and Goals

This course will cover the law of Remedies — the relief that a party to civil litigation may obtain from a court or a jury when the party proves that it has been wronged or is about to be wronged. The course will focus on three basic categories of remedies: (1) damages — money to compensate a plaintiff for loss, (2) equity — e.g., injunctive relief or specific performance designed to prevent harm to a plaintiff, and (3) restitution — typically, money to restore value that a defendant has gained at plaintiff’s expense. Time permitting, we may also cover ancillary remedies, including awards of costs and attorney’s fees and enforcement of orders and judgments.

Students should take this course intending to develop and improve in the following areas: (1) understanding the law and policy of Remedies and acquiring the ability to apply them to real situations; (2) evaluating and applying strategic considerations such as choosing between or among alternative remedies; and (3) critiquing existing law and policy.

REQUIREMENTS

Class Attendance and Participation

College of Law and American Bar Association policies require regular classroom attendance by students. Moreover, attendance at and participation in class complements and enhances your and other students’ understanding of the assigned reading materials and problems. I will draw from materials, presentations and discussions highlighted in class on the final exam, so regular classroom attendance and participation should provide an added benefit. If there is an issue with your regular attendance and participation, please let me know so that we can address the problem.

Subject to the exceptions noted below, students will be expected to be prepared for each and every class session. There will ordinarily be three ways that students will participate in class:
(1) serving on a student panel; (2) volunteering to respond to questions posed in class or asking questions concerning the reading materials and issues raised during class discussions; and (3) being called on randomly to respond to questions in class.

Regarding the student panel system, I am new to teaching and have not yet finalized my approach. However, I think that it is likely that sometime after the first week or two of class I will assign two students the initial responsibility for responding to questions during a given class session. I will tell the class during the previous week which students will be on call the following week(s). Use of the panel is designed to improve classroom discussion and reduce the delay and “down time” that can occur when student participation occurs only on a voluntary or random, cold call basis. It also requires participation by students who might not otherwise speak in class and deters other students from dominating classroom discussions. It mirrors what happens in court, when many attorneys may be familiar with or work on an issue, but only one or two per party speak to the court, and they and the court know who they will be when everyone enters the courtroom. When using a panel, I plan to begin the class discussion with panel members, but will try to involve other class members as well, because a fresh insight can come from anyone.

Life happens. If you find yourself unprepared for class (this should not occur often), if you let me know before class, I will not call on you during that class session regarding the materials for that week’s class. It is better for a student to attend class and benefit from the class discussion than miss class because of lack of preparation.

You should not be a panel member when you know ahead of time that you will be unprepared or absent from class. If you are nevertheless unprepared or must be absent on a day when you are a panel member, please let both me and your fellow panel member know far enough in advance of class so that, if necessary, we can make alternative arrangements.

Reading

I will provide a list of reading assignments from the Remedies text and supplement (and possibly other sources) to you in writing on a periodic (every 3-4 week) basis. These assignments will enable you to plan your reading so as to be current with class discussions. Please read the assigned materials before class and be prepared to discuss them in class. The textbook is structured into 64 teaching units; realistically, we can cover about 45 or so of them in our classroom time. I am still figuring out what to cover and what to leave out.

Problem Solving

Students will be expected to apply legal principles and case law to sets of facts. These analytical exercises will be a regular part of class discussions. Also, after each major section of material, we will look at written, hypothetical problems designed to test and/or facilitate your knowledge of the law and analytical ability. You are encouraged to prepare written responses to any and/or all the hypothetical problems and submit them to me (and/or your classmates) for review, meeting and (non-graded) evaluation. I have not yet decided whether I will give a graded written assignment in addition to the final exam. If I do, it will consist of briefing a motion, probably for injunctive relief, and will have strict page limit. It will at most be 10 or 15 percent of the final grade. I will let the class know by the end of the fourth week whether I intend to do this.
Grades — Final Exam

The final exam will be open-book and open-note and given at a scheduled time during the examination period. The exam itself will try to be comprehensive and include problems requiring essay or short answer responses. It may include questions upon which you must take and support a position pro or con on questions of Remedy policy.

Credit Hours for Coursework

In accordance with ABA Standard 310, the College of Law awards one credit hour for experiences that are reasonably designed to involve 50 minutes of classroom or direct faculty instruction and two hours of out-of-class student work per week, or at least the equivalent amount of work for academic activities including simulation, field placement, clinical, and other academic work leading to the award of credit hours.

The Course requirements outlined above with respect to materials and assignments, in my professional judgement, are complex enough in nature that it is expected that the amount of out-of-class time it will take students to complete the assignments will meet the rule.

Center for Disability Access and Resources (CDAR) Reasonable Accommodations Statement:

Reasonable accommodations are available for students who have documented temporary or permanent disabilities. Ideally, students in Moscow and Boise should meet with CDAR by the end of the first week of class to assess if any accommodations are needed for courses and/or examinations. All accommodation requests are then submitted by CDAR to Dean Dodge for final approval. CDAR serves as the sole evaluator of medical documentation and determines reasonable accommodations on a per semester basis. The College of Law does not have the authority to evaluate or grant disability accommodations without CDAR first submitting a recommendation. You may contact CDAR by:

- Calling 208-885-6307
- Emailing cdar@uidaho.edu

It is ultimately the student’s responsibility to seek a disability accommodation, and until an accommodation is approved by CDAR and Dean Dodge, no student will be entitled to receive any accommodations. To learn more about CDAR, visit its website at http://www.uidaho.edu/current-students/cdar

Moscow students may also visit CDAR in suite 127 of the Pitman Center. Please review the College of Law Catalog and Student Handbook for more information on the disability accommodation process.

Recording Class Sessions:

Students may not electronically record classes unless they have the express consent of the instructor, except where the Dean of Students has allowed recording as a disability accommodation pursuant to a recommendation by CDAR. Recording classes without the instructor’s express consent violates the Honor Code. Students recording classes as a disability accommodation must
follow procedures set down by CDAR. Students who are unable to attend class for reasons of illness or other exigencies must receive permission from the instructor before classes are recorded on their behalf. Contact the Law Library for recording equipment and information on recording procedures.

Civility

In any environment in which people gather to learn, it is essential that all members feel as free and safe as possible in their participation. To this end, it is expected that everyone in this course will be treated with mutual respect and civility, with an understanding that all of us (students, instructors, professors, guests, and teaching assistants) will be respectful and civil to one another in discussion, in action, in teaching, and in learning.

Should you feel our classroom interactions do not reflect an environment of civility and respect, you are encouraged to meet with your instructor during office hours to discuss your concern. Additional resources for expression of concern or requesting support include the College of Law Dean of Students (jdodge@uidaho.edu), the University Dean of Students office and staff (885-6757), the UI Counseling & Testing Center’s confidential services (885-6716), or the UI Office of Civil Rights & Investigations (885-4285).