

**WESTERN STATE UNIVERSITY COLLEGE OF LAW**  
**REMEDIES SECTION 303B – SPRING 2012**  
**Syllabus and Policies**  
**Professor Greg Sergienko**

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Office hours: TBA, depending on student schedules.

**But: I will be available for meetings until 11:15 after class**

### **Required Materials**

Shoben, Tabb, and Janutis, *Remedies: Cases and Problems* (4th ed.)

Tabb and Shoben, *Remedies in a Nutshell*

It is also required that you join the TWEN course webpage on Westlaw.

### **Before We Start**

In past versions of this course, we used an eInstruction.com response pad. This time, I hope to arrange for a free alternative as a demonstration provided by the device's manufacturer. I may randomly select people for use of a free alternative. Otherwise, you should be prepared to use CALI Instapoll to get instant feedback on your understanding of the materials.

### **Meeting with the Professor**

I will set up office hours when I find out what students' schedules are, but (as noted above) I will be having office hours after class.

### **Course Coverage**

At Western State, Remedies is a capstone course. Its coverage of damages, restitution, and injunctive relief will provide an opportunity to review and expand on the basics of remedies that have been covered in the remedial portions of other courses, especially torts, contracts, and civil procedure. You will learn the range of remedies available in specific cases so as to shape substantive claims and defenses to improve your client's position.

### **Assignments**

<b>Week</b>	<b>Topic and Assignment</b>
1	Introduction to the course; introduction to remedies; v-vii; 1-6; 13-20; 31-36; preventive injunctions: inadequacy of legal remedies, 43-50.
2	Irreparable harm, 50-57; balancing interests, 57-62; public interest, 71-85.
3	Specific performance: entitlement, 90-96, notes on 99-110; fashioning relief, 110-122; 125-127 (including land defect problem); sale of goods contracts, 127-131.
4	Equitable defenses: laches and estoppel, 143-154; unclean hands, 170-183; election of remedies, 189-197.
5	Interlocutory injunctions: substantive requirements, 202-216 (skip problem on 214); procedural requirements, 224-228; injunction bonds, 235-241.
6	Contempt: criminal contempt, 247-248, notes on 252--260; civil contempt, 272-278; enjoining nuisances, 343-351, notes on 357-360.

7	Contract damages: 372-396, (skip problem on 378); land sales contracts, 453-462. Midterm examination
8	Tort damages: personal property, 469- 494, 495-500 (skip problems on 478 and 494); real property, 500 through notes on 514.
9	Personal injury, 527-536, 540-544, 549-557 (skip problem on 557); adjustments to damages: present value and inflation, 589- 592.
10	Limitations on damages: foreseeability, 629-636; certainty, 646-652; avoidable consequences, 658-667 (skip problem on 667); collateral source rule, 674-675
11	Unjust enrichment: the concept, 780-798; benefits acquired by agreement or mistake, 798-803; 814-817.
12	Waiver of tort and suit in assumpsit, 817- 823; constructive trusts, 831-837; 843-847.
13	Equitable liens, 848-852 (skip problem on 852); tracing, 857-867.
14	Defenses: bona fide purchaser and change of position, 867-868; notes on 872-873; changed position, notes on 880-881; volunteers, 882-883.
15	Reading week
16	Final Examination

### **Examinations and Grading**

Remedies is a graded course. Your grade will be based on your performance on a number of tests, including a midterm examination, quizzes and/or short essay tests, and a final examination. I will inform you in advance of the dates of the tests.

### **Attendance and Participation**

Students must attend class regularly, prepare written case briefs and/or written answers to problems, and participate in discussions. Students must post at least two satisfactory discussion topics on TWEN, **at least one of which must be before the midterm**, and post two responses to others' postings, **at least one of which must be before the midterm**.

**Your course grade will be reduced for each time you are not prepared and you are considered to be absent for that class.**

A student can be absent no more than **two** class sessions. **A student who exceeds the limit will be dropped from the course and receive a failing grade.** You are responsible for keeping an accurate count of your absences.

### **Promptness**

Classes will begin promptly at the scheduled time. Please be in your seat for the start of the class. Students who arrive late disrupt the learning process for others. If you are unavoidably late, please enter quietly through the rear entrance and take a seat in the back of the room. Once class begins, please do not leave the room except for emergencies or medical reasons.

### **Food and Drinks**

I realize that the need to get from jobs and other places to school may leave night students with little time to eat. Consequently, I will allow food in the classroom if you can eat in a way that does not disrupt others or interfere with your ability to participate in the class. You may have

drinks in covered containers.

### **Commercial Outlines**

The process of preparing your own outlines and briefs helps you learn. For this reason, you may not recite from commercial outlines, briefs, or other commercial study aids. If you bring these materials into the classroom, they must be closed at all times.

### **Computer Use**

You may use a personal computer during class **for note taking only**. You may not be on the Internet, check email, play games, etc. In the event that students violate this rule, I reserve the right to prohibit computer use in class.

### **Seating Chart**

I will send around a seating chart early in the semester. Please print your name legibly in the seat of your choosing. This will be your permanent seat

### **Assignments**

The following assignments are from the casebook. **You must have all assignments for the week prepared in advance of the class meeting for that week. You must brief the cases and answer the assigned problems in writing.** I may assign additional problems that are not in the casebook. Read the corresponding sections in *Remedies in a Nutshell* to gain a fuller knowledge of the topics.