

Professor Beth Richardson  
803-530-1897  
[BRichardson@RobinsonGray.com](mailto:BRichardson@RobinsonGray.com)

Professor Matthew Richardson  
803-206-9066  
[MRichardson@Wyche.com](mailto:MRichardson@Wyche.com)

## **LEGAL AND EQUITABLE REMEDIES**

LAWS 663  
Fall 2024

Mondays and Wednesdays, 9:10-10:10 AM  
Room 284

### Required Textbook

DOUGLAS LAYCOCK & RICHARD L. HASEN, MODERN AMERICAN REMEDIES—  
CASES AND MATERIALS (Aspen Publishing 5th ed. 2019)

### Overview

This class is an introduction to litigation theory and strategy through analysis of the kinds of relief that may be obtained in civil litigation. Readings and problems will be used to analyze the differences among remedies, the policies and theories on which they are based, and their appropriateness in protecting specific legal interests. Students are expected to learn how to use various remedies to argue persuasively for appropriate remedies in civil cases. Students should be able to understand and apply remedies and advise clients on alternative remedies and defenses.

### General Policies

Attendance is required and will be recorded. The Law School Attendance Policy mandates that if you miss more than three classes (in this two-hour credit course that meets twice a week) for any reason, then you must obtain a waiver from the Associate Dean for Academic Affairs to take the final examination. You should keep track of your absences from each class and address any concerns proactively.

Class participation and active engagement is important. You should be prepared to discuss the reading and issues in each class. You should engage in class discussion and not try to transcribe it.

The internet is a powerful and sometimes overwhelming source of information. You may use computers and other electronic devices on silent during class. You may also access the internet during class. But we have only sixty minutes twice a week and urge you to make a note about a search or source you want to check and do that outside of class.

We will record a class only for accommodations and faculty improvement purposes. For questions or requests about accommodations, please contact Jenny Lanford ([vlandford@mailbox.sc.edu](mailto:vlandford@mailbox.sc.edu)). We may also be able to give you access to a recording if necessary and requested in advance.

### Examination and Grade

You will receive a letter grade based on a final examination. We will use the Anonymous Examination Grading System (AEGS) and follow the Law School's grade normalization policy. The final exam will be a two-hour, in-class exam beginning at 9:00 AM on Monday, December 9. The exam must be taken on the assigned exam date unless the Associate Dean for Academic Affairs approves a change. Exemplify software will be required if a computer is used to take the exam. You may handwrite your answers for the exam.

Academic integrity is required and essential to your legal education. The Honor Code and Disciplinary Procedures are available on the Law School website. Violation may result in failure of this class among other sanctions.

### Syllabus (Subject to Revision)

Numbering in parentheses identifies the expected pace of material per class. There are twenty-six classes and a final exam.

#### **I. Introduction**

(1a) *Reading:* Preface, *A Note to Students*, p. xxv; Ch. 1, pp. 1-9

#### **II. Paying for Harm: Damages**

A. The Basic Principle: Restoring Plaintiff to the Rightful Position

(1b) *Reading:* Ch. 2A, pp. 11-18

B. Value as the Measure of the Rightful Position

(2) *Reading:* Ch. 2B, pp. 18-35

C. Reliance and Expectancy as Measures of the Rightful Position

(3) *Reading:* Ch. 2C, pp. 35-52

- D. Consequential Damages  
(4) *Reading*: Ch. 2D, pp. 52-68
- E. Limits on the Basic Principle
  - 1. The Parties' Power to Specify the Remedy  
(5) *Reading*: Ch. 2E1, pp. 68-86
  - 2. The Scope of Liability  
(6) *Reading*: Ch. 2E3, pp. 102-120
- F. Substantive Policy Goals and Reasonable Certainty  
(7) *Reading*: Ch. 2E4 & 2E5, pp. 120-136
- G. Damages Where Value Cannot Be Measured in Dollars
  - 1. Personal Injuries and Death  
(8) *Reading*: Ch. 2G1 & *Notes on Valuing Pain and Suffering and Human Life*, pp. 167-185 & 201-204; and watch *Worth*, the 2021 Netflix movie
  - 2. Dignitary and Constitutional Harms  
(9) *Reading*: Ch. 2G3, pp. 205-222
  - 3. Punitive Remedies  
(10) *Reading*: Ch. 3A1 & 3B, pp. 223-240 & 265-71

### **III. Preventing Harm: The Measure of Injunctive Relief**

- A. Preventive Injunctions  
(11) *Reading*: Ch. 4A1, pp. 273-293
- B. Prophylactic Measures  
(12) *Reading*: Ch. 4A2, pp. 293-309
- C. Reparative Injunctions  
(13) *Reading*: Ch. 4A3, pp. 309-323
- D. Institutional Reform Litigation: Structural Injunctions  
(14) *Reading*: Ch. 4A4, pp. 323-348

### **IV. Choosing Remedies**

- A. Substitutionary or Specific Relief
  - 1. The Irreparable Injury Rule  
(15) *Reading:* Ch. 5A1a, pp. 381-393 & 397 (note *f* only)
  - 2. Economic Analysis of Specific v. Substitutionary Relief  
(16) *Reading:* Ch. 5A1a n.5 & 5A1b, pp. 389-391 (only note 5) & 399-409
  - 3. Undue Hardship and Burden on Court  
(17) *Reading:* Ch. 5A1b *Van Wagner* and notes & 5A2, pp. 410-429
- B. Preliminary or Permanent Relief  
(18) *Reading:* Ch. 5B1, pp. 449-466
- C. Prospective or Retrospective Relief
  - 1. Sovereign Immunity  
(19) *Reading:* Ch. 5C1, pp. 484-501
  - 2. Qualified Immunity  
(20) *Reading:* Ch. 5C2, pp. 501-519
- D. Creating Causes of Action  
(21) *Reading:* Ch. 6B, pp. 555-573

## V. Declaratory Remedies

- A. Declaratory Judgments  
(22) *Reading:* Ch. 7A1, pp. 591-607 & 614 (note 2 only)
- B. Other “Declaratory” Remedies (including Reformation)  
(23) *Reading:* Ch. 7B & 7C & 7D, pp. 623-639

## VI. Restitution

- A. Why Restitution?  
(24) *Reading:* Ch. 8A1, pp. 641-658
- B. Disgorging Profits  
(25) *Reading:* Ch. 8B1 & 8B3b, pp. 673-693 & 712-723

**VII. Ancillary Remedies**

- A. Enforcing the Judgment
  - 1. Contempt  
*No assigned reading*
  - 2. Collecting Money Judgments  
*No assigned reading*
- B. Attorneys' Fees  
*No assigned reading*

**VIII. Final Examination**

9-11 AM on Monday, December 9