

# WASHBURN UNIVERSITY

## SCHOOL OF LAW

### CLASS POLICIES AND ASSIGNMENTS

**COURSE:** Remedies  
**SEMESTER:** Spring 2010  
**REQUIRED TEXTS:**

- Schwartz and Wilson, Materials, Cases and Problems on Remedies (2009)
- Russell L. Weaver and Michael B. Kelly, Remedies (Thomson-West 2005)
- Denise Riebe and Michael Hunter Schwartz, Pass the Bar! (Carolina Academic Press 2006)
- At least 200 and up to 400 Practice Bar Exam Multiple Choice Questions (to be explained on the first day of class)

**PROFESSOR:** Michael Hunter Schwartz (Office-- 309, Extension-- 1666, e-mail—[michael.schwartz@washburn.edu](mailto:michael.schwartz@washburn.edu))

- **My Fundamental Expectations:** I expect you to:
  - have fun (the research on learning shows that students learn more in class when feel like class is fun);
  - care as passionately about your learning as I do;
  - treat the class as a professional obligation;
  - impose high expectations on me, on yourself, and on your peers;
  - be respectful to me and your peers;
  - discover for yourself why Remedies is the single most exciting course in law school!
- **Course Goals:**
  - **Affective Goals:** Students and the teacher will have a challenging and enjoyable learning experience.
  - **Values:** Students will:
    - Demonstrate respect for students, staff, and faculty.
    - Develop an attitude of cooperation with students, faculty, lawyers, judges.
    - Demonstrate honesty, reliability, responsibility, judgment, self-motivation, hard work, and critical self-reflection.



**Proposal:** *Here is one potential grading scheme. I welcome alternative proposals and refinements.*

- **Bar Preparation Activities Including Essay Advantage (20% of course grade):** *You must complete all pass-fail bar preparation activities. Completing all aspects of Essay Advantage counts for ½ of your score. The activities will include:*
    - *Creating, using, and evaluating a one week-long study plan for one week of this semester. You must show me both what you created and how you used and evaluated it.*
    - *200 Practice MBEs and completion of Pass the Bar!, Exercise 14-3 for all questions you answer incorrectly and completion of Pass the Bar!, Exercise 14-4 for all 200 questions.*
    - *Practice essays and completion of exercises relating thereto.*
    - *At least one practice performance examination and completion of exercises relating thereto.*
    - *Assignments and problems as part of your class preparation.*
    - *Other exercises as assigned.*
  - **Three Post-Essay Advantage Mid-Semester, Take-Home Pass-Fail Remedies Bar Essays (20% of course grade):** *You will be taking three take-home, one hour bar essays dealing with the three main topics in remedies: damages, coercive equitable relief and restitution.*
  - **Final Examination (40% of course grade):** *Three hours. The format of the final exam is subject to change, but I am currently planning at least one, one-hour essay; at least two, half-hour essays, and at least 30 bar-like multiple choice questions.*
  - **Adjustment for Extraordinary Class and/or Course Webpage Participation:** *I may adjust your final course grade for extraordinary class and/or Course Webpage participation as follows: I will adjust two-tenths upward (e.g., from a 3.0 to a 3.2) the grades of students whose efforts in either category or both are extraordinary. To achieve this “extraordinary” standard, students must volunteer to participate frequently in class or on the webpage (whether I call on them or not), must always be prepared for class and paying attention when I call on them, and must contribute ideas and analysis that reflect original and valuable insight.*
  - **Adjustment for Extra Multiple Choice Questions:** *Any student who, in addition to completing the 200 required MBE questions completes another 200 MBE questions (and records his or her performance using Exercise 14-2 and 14-3, will have his or her grade adjusted upward one full step (e.g., from a B to a B+).*
- **Office Hours, Appointments and E-mail:** *Students may use office hours to address their concerns and confusion regarding any of the course material or for other guidance. **I make my own appointments.** My office hours are: Tuesdays and Thursdays, 1-5 pm. I also make appointments to accommodate students in need of my attention. I always arrive to class several minutes before the scheduled start of class, and I do take questions at such times. I will respond very promptly to any question posed by e-mail (see my **e-mail address** above).*

- **Course Web Page:** Remedies has its own webpage on TWEN. The password is “BOOM!” (be sure to use all caps and the exclamation mark).
- **Disability Services:** Washburn University School of Law strives to assure equal access and full participation by persons with disabilities. If you require services because of a disability, you may notify Lynette Petty, Assistant Dean, in the Law Clinic, Room 160, or email her at [lynette.petty@washburn.edu](mailto:lynette.petty@washburn.edu). This voluntary self-identification allows the University to prepare any necessary and appropriate support services to facilitate your learning.

Any requests for exam accommodations should be directed to Dean Petty and should be made at least four weeks prior to the exam to allow adequate time to document and process the request.

- **Select Mission of the University:** Washburn University shall prepare qualified individuals for careers, further study and life long learning through excellence in teaching and scholarly work. Washburn University shall make a special effort to help individuals reach their full academic potential. *Washburn University Board of Regents, 1999*
- **Academic Misconduct Policy:** All students are expected to conduct themselves appropriately and ethically in their academic work. Inappropriate and unethical behavior includes (but is not limited to) giving or receiving unauthorized aid on examinations or in the preparation of papers or other assignments, or knowingly misrepresenting the source of academic work. Washburn University’s Academic Impropriety Policy describes academically unethical behavior in greater detail and explains the actions that may be taken when such behavior occurs. For guidelines regarding protection of copyright, consult [www.washburn.edu/copyright/students](http://www.washburn.edu/copyright/students). For a complete copy of the Academic Impropriety Policy, contact the office of the Vice President for Academic Affairs, Morgan 262, or go online to: [www.washburn.edu/admin/fac-handbook/FHSEC7.htm#VIII](http://www.washburn.edu/admin/fac-handbook/FHSEC7.htm#VIII).
- **Assignments:** Assignments include materials found in the casebook, my bar pass book and your booklet of bar-style multiple-choice questions. *Because my teaching is student-centered and therefore adjusts based on how the students are learning, I have provided an estimated schedule of assignments for approximately the first third of the class (five and a half weeks). In three or four weeks, I will distribute the assignments for the next third of the class.*

<u>TOPICS</u>	<u>ASSIGNMENTS</u> (deadlines are in parentheses)	<u>DATES</u> (estimated)
<ul style="list-style-type: none"> <li>• Introduction to Remedies</li> <li>• Class policies</li> <li>• Introduction to Passing Your Bar Exam</li> <li>• MBE Strategies</li> <li>• Disciplining yourself to a bar study schedule</li> </ul>	<ul style="list-style-type: none"> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, p. 2</li> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 91-94</li> <li>• Riebe &amp; Schwartz <u>Pass the Bar!</u>, Chaps. 1-8 and 14 (<b>due Feb. 4</b>)</li> <li>• MBE Project 1: Answer your first 120 practice multiple choice questions. Afterwards, self-correct your answers and complete and turn in Exercise 14-3 in the Riebe &amp; Schwartz text (<b>due Feb. 4</b>)</li> <li>• Using any planning tool you wish to use, plan your schedule for all your activities—school, work, extracurricular, family and exercise--during the second week of this semester (<b>due Feb. 4</b>)</li> </ul>	<p><b>One-Half Week (i.e., One Class Session)</b></p> <p><b>Jan. 12</b></p>
<p><b>Damages:</b></p> <ul style="list-style-type: none"> <li>• Measure of damages: <ul style="list-style-type: none"> <li>✓ In general</li> <li>✓ Torts</li> </ul> </li> </ul> <p><b>Study Strategies</b></p>	<ul style="list-style-type: none"> <li>• Weaver &amp; Kelly, pp. 197-202 (<b>Jan. 14</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u>, pp. 4-10 (damages in general) (be prepared to discuss the cases) (<b>Jan. 14</b>)</li> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 204-209, 222, 226-230 (<b>Jan. 14</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, pp. 11-22 (Conversion/Destruction of Chattel) (be prepared to discuss the cases and your analysis of the problems) (<b>prepare the first two cases for Jan. 14; prepare the remaining cases for and prepare problems 1-2 on p. 22 for Jan. 19</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, p. 22 (problems 3-6) (Injuries to Land) (<b>Jan. 21</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, pp. 23-28 (Damage to Chattel) (<b>Jan. 21</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, p. 29 (Personal Injury) (<b>Jan. 26</b>)</li> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 218-219, 231-232, 240-242, 243-247 (<b>Jan. 26</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, pp. 29-39 (problems 1-3 on p. 39) (misrepresentation) (<b>Jan. 26</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, p. 39 (Damages for other torts) (problems 1-4) (<b>Jan. 26</b>)</li> <li>• Riebe &amp; Schwartz, <u>Pass the Bar!</u>, Chaps. 11 and 13 (<b>Jan. 26</b>).</li> <li>• Complete Exercise 11-1 in the Riebe and Schwartz text (<b>Jan. 26</b>)</li> </ul>	<p><b>Two Weeks</b></p> <p><b>Jan. 14</b> <b>Jan. 19</b> <b>Jan. 21</b> <b>Jan. 26</b></p>

<b><u>REMEDIES</u></b> <b><u>TOPIC</u></b>	<b><u>ASSIGNMENTS</u></b> (deadlines are in parentheses)	<b><u>DATES</u></b> (estimated)
<b>Damages:</b> <ul style="list-style-type: none"> <li>• <b>Measure of damages:</b></li> <li>✓ <b>Contracts</b></li> </ul> <b>Study Strategies</b> <b>MBE</b> <b>Strategies</b>	<ul style="list-style-type: none"> <li>• Complete Exercise 13-1 in the Riebe &amp; Schwartz, <u>Pass the Bar!</u> with respect <i>only</i> to your required readings for measure of damages for breach of contract (<b>Feb. 4</b>)</li> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 210-218 (<b>Jan. 28</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, pp. 40-45 (general rules regarding measuring damages and hypos to practice identifying nature of breach, problems 1-4) (<b>Jan. 28</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, pp. 46-47 (buyers' damages for seller's breach-- sale of land) (<b>Jan. 28</b>)</li> <li>• UCC Sections 2-711 to 2-714 (will be distributed on first day of class) (buyers' damages for seller's breach) (<b>Jan. 28</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, p. 48 (buyers' damages for non-performance) (problems 1-2) (<b>Jan. 28</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, p. 48 (other buyers' damages for sellers' breach) (problems 3-4) (<b>Jan. 28</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, p. 49 (owners' damages for non-performance by contractor) (problem 5) (<b>Jan. 28</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, p. 49 (owners' damages for incomplete performance by contractor) (problem 6) (<b>Feb. 2</b>)</li> <li>• Employer's damages for employee's breach problem will be presented in class (<b>Feb. 2</b>)</li> <li>• UCC Sections 2-706 to 2-709 (will be distributed on first day of class) (seller's damages for buyer's breach) (<b>Feb. 2</b>)</li> <li>• Seller's damages for buyer's breach (land and goods) problems will be presented in class (<b>Feb. 2</b>)</li> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, p. 49 (contractor's damages for owner's breach) (problems 7.1- 7.3) (<b>Feb. 2</b>)</li> <li>• Employee's damages problems will be presented on PowerPoint in class (<b>Feb. 4</b>)</li> <li>• Schwartz and Wilson, <u>Remedies</u>, p. 50 (problems 1-2) (Damages for Defective Performances) (<b>Feb. 4</b>)</li> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, pp. 51-56 (Reliance Damages Only) (<b>Feb. 4</b>)</li> <li>• Schwartz &amp; Wilson <u>Remedies</u> text, pp. 57-59 (Summary of Measure of Damages Law) (<b>Feb. 4</b>)</li> </ul>	<b>One &amp; One-Half Weeks</b>  <b>Jan. 28</b> <b>Feb. 2</b> <b>Feb. 4</b>

<b><u>REMEDIES</u></b> <b><u>TOPIC</u></b>	<b><u>ASSIGNMENTS</u></b> (deadlines are in parentheses)	<b><u>DATES</u></b> (estimated)
<b>Damages (cont'd)</b> <ul style="list-style-type: none"> <li>• <b>Limitations on damages</b></li> <li>✓ <b>Causation</b></li> <li>✓ <b>Certainty</b></li> <li>✓ <b>Foreseeability</b></li> <li>✓ <b>Avoided and Avoidable Consequences,</b></li> <li>✓ <b>Credit for Benefit and Collateral Source Rule</b></li> </ul>	<ul style="list-style-type: none"> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 254-260, 270-273 (causation, economic loss doctrine, certainty) (<b>Feb. 9</b>)</li> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, pp. 61-67, p. 78, problems 1-2 (causation and intro to certainty) (<b>Feb. 9</b>)</li> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 260-261, 264-270 (avoided consequences, avoidable consequences, foreseeability) (<b>Feb. 11</b>)</li> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, pp. 68-76, 78-79, problems 3-18 (<b>Feb. 11</b>)</li> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, p. 77 (foreseeability in tort law) (<b>Feb. 11</b>)</li> <li>• Weaver &amp; Kelly, <u>Remedies</u>, pp. 262-264 (credit for benefit and collateral source rule) (<b>Feb. 16</b>)</li> <li>• Schwartz &amp; Wilson, <u>Remedies</u>, pp. 80-81 (Credit for Benefit and collateral source rule) (<b>Feb. 16</b>)</li> <li>• Riebe &amp; Schwartz, <u>Pass the Bar!</u>, Chap. 15 (<b>Feb. 16</b>)</li> </ul>	<p><b>One &amp; One-Half Weeks</b></p> <p><b>Feb. 9</b> <b>Feb. 11</b> <b>Feb. 16</b></p>
<b>Injunctions (including specific performance)</b> <ul style="list-style-type: none"> <li>• <b>Introduction and equity jurisdiction (inadequacy requirement)</b></li> <li>• <b>TROs and preliminary injunctions</b></li> <li>• <b>Equitable decrees</b></li> <li>• <b>Limitations on equity and equitable discretion</b></li> <li>• <b>Contempt (assuming time permits)</b></li> </ul> <b>Bar Essay Strategies</b>		<p><b>Four and One-Half Weeks</b></p>

<b><u>REMEDIES</u></b> <b><u>TOPIC</u></b>	<b><u>ASSIGNMENTS</u></b> (deadlines are in parentheses)	<b><u>DATES</u></b> (estimated)
<b>Restitution</b> • <b>Unjust enrichment requirement</b>		<b>One Week</b>
<b>Restitution</b> • <b>Substitutionary restitution at law</b> <b>Bar Essays</b> <b>Property Law Review (optional)</b> <b>Constitutional Law Review (optional)</b>		<b>One and One-Half Weeks</b>
<b>Restitution</b> • <b>Substitutionary restitution in equity</b> <b>Bar Essay Strategies</b>		<b>One Week</b>
<b>Restitution</b> • <b>Specific restitution</b>		<b>One-Half Week</b>
<b>Rescission</b> <b>Bar Essay Strategies</b>		<b>One-Half Week</b>
<b>Punitive Damages</b>		<b>One-Half Week</b>
<b>Review</b> <b>MBE Strategies</b> <b>Bar Exam Study Planning</b>		<b>Extra Class Session</b>

