

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
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NATIONAL COMMITTEE ON ACCREDITATION

SYLLABUS

REMEDIES

JANUARY 2010

Remedies

Syllabus

This course has two primary objectives. First, it introduces candidates to the principles governing the availability of money remedies at common law. Secondly, it covers the various equitable remedies including their scope and the discretionary considerations that influence Canadian courts in assessing their availability in particular cases.

As well as knowledge of the principles and rules of the Canadian law of Remedies, in answering the problem-based questions on the examination, candidates will be expected to display an aptitude for the application of that knowledge in the context of specific fact situations. That will involve an ability to analyse and distill relatively complex facts, to relate the law as identified to the salient facts, and to reason towards a conclusion in the form of advice to a client or the likely judgment of a court confronted by such a problem.

Casebook

The Casebook for the course is Berryman *et al.*, **Remedies: Cases and Materials** (Toronto: Emond Montgomery Publications Ltd., 5th ed., 2006), Chapters 1, 2, 3, 6, 7, 8 (save pages 878-83), 9, 10, and 11.

Supplementary Material

Take account also of the following more recent cases (with relevant page of Casebook attached):

Remoteness

Mustapha v. Culligan of Canada Ltd., [2008] 2 S.C.R. 114, 2008 SCC 27 - page 13.

RBC Dominion Securities Inc. v. Merrill Lynch Canada Inc., [2008] 3 S.C.R. 79; 2008 SCC 54 (at paras. 8-13 particularly) - page 13.

Mitigation

Evans v. Teamsters Local Union No. 31, [2008] 1 S.C.R. 661; 2008 SCC 20 - page 37.
(Also, consider this judgment when reviewing Specific Performance of Personal Service Contracts - pp. 1055ff.)

Wallace v. Allen, 2009 ONCA 36; 93 O.R. (3d) 723 - page 37.

Time for Assessment of Damages where Repudiation of Contract

Golden Strait Corp. v. Nippon Yusen Kubishka Kaisha, [2007] A.C. 353; [2007] UKHL 12 - page 59.

Cost of Completion or Difference in Value Damages

514953 B.C. Ltd. (C.o.b. Gold Key Corporation) v. Leung, 2007 BCCA 114; 64 B.C.L.R. (4th) 76 - page 177.

Punitive Damages and Damages for Mental Distress for Breach of Contract

Fidler v. Sun Life Assurance Co. of Canada, [2006] 2 S.C.R. 3; 2006 SCC 30 - pages 211 and 371.

Punitive Damages for Breach of Contract

Honda Canada Inc. v. Keays, [2008] 2 S.C.R. 362; 2008 SCC 39 - page 211.

Anton Piller Orders

Celanese Canada Inc. v. Murray Demolition Corp., [2006] 2 S.C.R. 189, 2006 SCC 36 - page 974

Specific Performance

Wallace v. Allen, 2009 ONCA 36; 93 O.R. (3d) 723 - page 1017.

UBS Securities Canada, Inc. v. Sand Brothers Canada Inc., 2009 ONCA 328; 95 O.R. (3d) 93, at paras. 96-107 - page 1017.

Supplementary Texts

Jeffrey Berryman, **The Law of Equitable Remedies** (Toronto: Irwin Law, 2000).

Jamie Cassels and Elizabeth Adjin-Tettey, **Remedies: The Law of Damages** (Toronto: Irwin Law, 2nd ed., 2008).

R.J. Sharpe, **Injunctions and Specific Performance** (Aurora: Canada Law Book, 2nd ed., 1992) and Supplements.

S.M. Waddams, **The Law of Damages** (Aurora: Canada Law Book, 3rd ed., 1997) and Supplements.

August 25, 2009

Canadian Publishers

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Internet Sites for Provincial Legislation

www.canlii.org

This is a listing for all the provinces and is highly recommended

Ontario:

<http://www.attorneygeneral.jus.gov.on.ca/english/legis/>

British Columbia (Queen's Printer):

<http://www.bclaws.ca/>

Alberta (Queen's Printer):

<http://www.qp.alberta.ca/>

Supreme Court Judgments:

<http://scc.lexum.umontreal.ca/en/index.html>