

# Syllabus Remedies

Revised August 2021

Candidates are advised that the syllabus may be updated from time-to-time without prior notice.

Candidates are responsible for obtaining the most current syllabus available.



## **SCOPE OF THE COURSE**

This is a course in civil judicial remedies. It is concerned with the nature and scope of court-ordered relief that is available to a plaintiff who has made out a substantive cause of action. You have encountered judicial remedies in other courses, such as contract and tort, which treat the topic as an adjunct to the study of particular substantive causes of action. In those contexts, remedial questions are mostly ancillary, overshadowed by the study of substantive primary rights. In this course our focus is on remedies for the breach of those substantive rights.

### **EXAMINATION**

The examination in this course includes problem-based questions that require candidates to analyze fact patterns, to apply the relevant law to the facts, and to reason to a conclusion. The Remedies examination may also contain multiple-choice questions and/or short-answer problems that require candidates to demonstrate their facility with remedial principles by critically evaluating the law, or by discriminating between sound and unsound arguments and propositions.

The function of the Remedies examination is to determine if candidates have acquired a proficiency in the fundamental rules and principles governing the law of remedies in Canada. Proficiency requires much more than the regurgitation of rules. Proficiency requires an ability to spot issues; to generalize by analogy from the assigned cases and materials; to apply remedial rules and principles to facts (including by quantifying damages in appropriate cases); and to distinguish sound legal arguments from unsound ones.

# PRESCRIBED MATERIALS

You will require access to the following three titles, including two textbooks and a casebook.

#### 1. Casebook:

J Berryman et. al., *Remedies: Cases and Materials* (Toronto: Emond Montgomery, 8<sup>th</sup> edition, 2020)

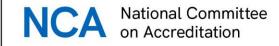
#### 2. Textbook (Damages):

J Cassels and E Adjin-Tettey, *Remedies: The Law of Damages* (Toronto: Irwin Law, 3<sup>rd</sup> edition, 2014)

#### 3. Textbook (Equitable Remedies):

J Berryman, *The Law of Equitable Remedies* (Toronto: Irwin Law, 2<sup>nd</sup> edition, 2013)





## **OTHER REFERENCE MATERIALS**

The following two supplementary texts may be useful. They are not required.

- R.J. Sharpe, *Injunctions and Specific Performance* (Toronto: Thomson Reuters, 5<sup>th</sup> ed., 2017)
- 2. S.M. Waddams, *The Law of Damages* (Toronto: Canada Law Book, 5<sup>th</sup> ed., 2012)

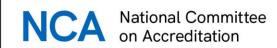
# **ASSIGNED READINGS**

The prescribed readings for the course are set out below. They include sections of the prescribed textbooks, in addition to individual cases. *All of the material assigned below is examinable*.

You should study the topics in the order in which they are listed. Within each topic, the best approach is to read the assigned material from the texts first. This will afford you an overview of the topic. Then study the cases corresponding to that material.

Knowledge of the prescribed readings is essential to passing the examination in this course. The examination will be based exclusively on these materials. Candidates who have acquired their knowledge of the law of remedies from a course based on different materials are unlikely to be equipped to pass the examination in this course.





"C" = Cassels & Adjin-Tettey, *Remedies: The Law of Damages*, 3<sup>rd</sup> edition.

"B" = Berryman, *Equitable Remedies*, 2<sup>nd</sup> edition.

"CB" = Casebook.

## Cases not included in CB are found at https://www.canlii.org/en/

Text	Topic	Assigned Cases	Case Found at
C 1-14	Overview of the Law of Damages		
C 17-59	Damages for Breach	"The Reliance Interest in Contract Damages"	CB 263
C 248-278		Canlin v Thiokol Fibres Canada	CB 269
C 368-374		RG McLean v Canadian Vickers	CB 279
C 392-407		Ticketnet Corp v Air Canada	CB 285
		Golden Strait v Nippon Yusen Kubishka Kaisha	CB 290
		Ruxley Electronics and Construction v Forsyth	CB 292
		Hamilton v Open Window Bakery	CB 299
		Agribrands Purina Canada v Kasamekas	2011 ONCA 460 (CanLII)
		Bowlay Logging v Domtar	CB 316
		Sunshine Vacation Villas v Hudson's Bay Co	CB 320
		Fidler v Sun Life Assurance Co of Canada	CB 305
C 59-72	Tort Damages for	Beaver Lumber v McLenaghan	CB 328
	Economic Loss	Budai v Ontario Lottery Corp	1983 CanLII 3077 (ON SCDC)
		VK Mason Construction v Bank of Nova Scotia	CB 333
		Rainbow Industrial Caterers Ltd v CNR	CB 335
		Messineo v Beale	1978 CanLII 1570 (ONCA)



Text	Topic	Assigned Cases	Case Found at
C 73-119	Damages for Harm to Property Interests	<ul> <li>Liesbosch Dredger v Edison Steamship</li> <li>O'Grady v Westminster Scaffolding</li> <li>Darbishire v Warran</li> <li>Bowman v Martineau</li> <li>Miller v Brian Ross Motorsports</li> <li>James Street Hardware v Spizziri</li> <li>Nan v Black Pine Manufacturing</li> </ul>	CB 371 CB 384 CB 388 2020 ONCA 330 (CanLII) CB 390 CB 375 1991 CanLII 1144 (BCCA)
C 320-353	Punitive Damages	<ul> <li>Cassell &amp; Co Ltd v Broome</li> <li>Whiten v Pilot Insurance</li> <li>McCabe v Roman Catholic Episcopal Corp</li> </ul>	CB 178 CB 186 2019 ONCA 213 (CanLII)
C 388-391	Certainty and Causation	Penner v Mitchell	1978 ALTASCAD 201 (CanLII)
C 428-460	Mitigation & Avoided Loss	<ul> <li>Janiak v Ippolito</li> <li>Erie County Natural Gas v Carroll</li> <li>Cockburn v Trusts &amp; Guarantee Co</li> <li>Jamal v Moolla Dawood Sons</li> <li>Slater v Hoyle &amp; Smith</li> <li>Sells Ltd v Thomson Stationery</li> <li>Finelli v Dee</li> <li>Southcott Estates v Toronto Catholic D.S.B.</li> </ul>	CB 38 CB 54 CB 56 CB 58 CB 63 CB 52 CB 52 2012 SCC 51 (CanLII)

Text	Topic	Assigned Cases	Case Found at
C 460-479	Date of Assessment	Asamera Oil v Brook	CB 96
B 449-452		Wroth v Tyler	CB 122
B 465-475		Johnson v Agnew	CB 138
		306793 Ontario v Rimes	1979 CanLII 1845 (ONCA)
		Semelhago v Paramadevan	CB 147
		Strategic Acquisition v Starke Capital	2017 ABCA 250 (CanLII)
B 269-312	Specific Performance	Sky Petroleum Ltd v VIP Petroleum Ltd	CB 899
B 348-381		Semelhago v Paramadevan	CB 957
B 313-347		Harle v 101090442 Saskatchewan Ltd	CB 972
		Aulakh v Nahal	CB 981
		Falcke v Gray	CB 877
		Beauchamp v Coastal Corporation	CB 1054
		<ul> <li>Dobson v Winton &amp; Robbins Ltd</li> </ul>	CB 995
		Nagel's Debt Review Inc v Mosiuk	CB 1084
B 22-57	Interlocutory	American Cyanamid v Ethicon	CB 699
B 66-86	Injunctions	Yule Inc v Atlantic Pizza Delight	CB 709
		Mott-Trille v Steed	CB 724
		R v Canadian Broadcasting Corporation	CB 730
		City Wide Towing v Poole	2020 ABCA 305 (CanLII)



Text	Topic	Assigned Cases	Case Found at
B 184-226	Perpetual Injunctions	Redland Bricks v Morris	CB 576
		Miller v Jackson	CB 603
		1711811 Ontario v Buckley Insurance Brokers	2014 ONCA 125 (CanLII)
		Krieser v Garber	2020 ONCA 699 (CanLII)
B 103-137	Mareva Orders	Mareva Compania Naviera v Int'l Bulkcarriers	CB 782
		Aetna Financial Services Ltd v Feigelman	CB 786
		<ul> <li>Z Ltd v A-Z and AA-LL Ltd</li> </ul>	CB 806
		Trade Capital Finance v Cook	2017 ONSC 1857 (CanLII)
B 139-161	Anton Piller Orders	Anton Piller KG v Manufacturing Processes Ltd	CB 819
		Celanese Canada Inc v Murray Demolition	CB 827
		Corp	





#### Canadian Publishers

**Carswell (Thomson Reuters)** 

Corporate Plaza 2075 Kennedy Road Scarborough, ON M1T 3V4

Irwin Law Inc.

14 Duncan St. Toronto, ON

M5H 3G8

**Emond Montgomery** 60 Shaftsbury Ave.

Toronto, ON M4P 3A1

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(For printed material only and not

for access to Quicklaw)

**Canada Law Books** 

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CAPTeam@thomsonreuters.com URL: http://www.carswell.com/

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URL: http://www.carswell.com/

#### **Online Resources**

The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada (www.canlii.org). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your exam registration fee also includes free access to the Advance Quicklaw resources of LexisNexis. Your ID and password will be arranged and emailed to your email address on file a few weeks after the end of the registration session.

Sign in to Quicklaw via http://www.lexisnexis.com/ca/legal. The first time you sign in you will be asked to change or personalize your password. Remember your User ID and password are personal, and should not be shared with anyone.

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