

# Syllabus Remedies

Revised March 2024

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, usually overshadowed by the study of substantive primary rights. In this course the focus is on remedies for the violation of those substantive rights.

### **EXAMINATION**

The examination in this course includes problems of different kinds. It 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 examination may also contain multiple-choice questions. Finally, the examination may include short-answer questions 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 purpose of the examination in Remedies is to assess whether 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, principles, and concepts. Proficiency requires a demonstrated ability to spot legal 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.

# **REQUIRED 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)

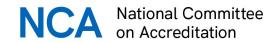
#### 2. Textbook (Damages):

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, 3<sup>rd</sup> edition, 2023)





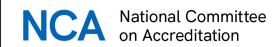
## **ASSIGNED READINGS**

The prescribed readings for the course are set out below. They include sections of the prescribed textbooks, in addition to individual cases. Most cases are excerpted in the prescribed casebook. Those that are not in the casebook can be accessed free of charge through the CanLII database (www.canlii.org/en/). All of the material assigned below is examinable. (The casebook includes notes and text accompanying some of the cases. This material is not required reading, but you may find it useful.)

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 textbook first. This will afford you an overview of the topic. Then study the cases corresponding to that material. Please note that doing the assigned textbook reading, without also reading the cases, will not prepare you adequately for the exam.

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 will probably not 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*, 3<sup>rd</sup> edition.

"CB" = Casebook, Berryman et. al., Remedies: Cases and Materials, 8th edition.

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

Text	Topic	Assigned Cases	Case Found at
C 1-14	Overview of Damages		
	Law		
C 17-59	Damages for Breach	"The Reliance Interest in Contract Damages"	CB 263
C 240-278		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
C 520-539		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)
		PreMD Inc. v. Ogilvy Renault LLP	2013 ONCA 412 (CanLII)
		Bowlay Logging v Domtar	CB 316
		C.M. Callow Inc. v. Zollinger	2020 SCC 45 headnote &
		Bhatnagar v. Cresco Labs	paras 105-119; 139-151
		Folland v Reardon	2023 ONCA 401
		Sunshine Vacation Villas v Hudson's Bay Co	2005 CanLII 1403 (ONCA)
		Fidler v Sun Life Assurance Co of Canada	headnote & paras 57-93
		Tim Ludwig Professional Corp v. BDO Canada	CB 320
		Emkay Canada Fleet Services v Gemini Corp	CB 305
		HF Clarke Limited v. Thermidaire	2017 ONCA 292 (CanLII)
		Elsley v. J.G. Collins Ins. Agencies	2020 ABCA 245 (CanLII)
		Tang v. Zhang	1973 CanLII 41 (ONCA)
			1978 CanLII 7 (SCC)
			2013 BCCA 52 (CanLII)
C 59-72	Damages for	Beaver Lumber v McLenaghan	CB 328
	Negligence Causing	Budai v Ontario Lottery Corp	1983 CanLII 3077 (ON SCDC)
	Economic Loss	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)
		Bowman v. Martineau	2020 ONCA 330 (CanLII)
C 73-119	Damages for Harm to	Liesbosch Dredger v Edison Steamship	CB 371
	Property Interests	O'Grady v Westminster Scaffolding	CB 384
		Darbishire v Warran	CB 388
		Bowman v Martineau	2020 ONCA 330 (CanLII)
		Miller v Brian Ross Motorsports	CB 390
		James Street Hardware v Spizziri	
		Nan v Black Pine Manufacturing	CB 375
		_	1991 CanLII 1144 (BCCA)



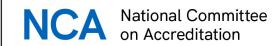
C 320-353	Punitive Damages	Cassell & Co Ltd v Broome	CB 178
		Whiten v Pilot Insurance	CB 186
		McCabe v Roman Catholic Episcopal Corp	2019 ONCA 213 (CanLII)
		Baker v. Blue Cross Life Insurance Co.	2023 ONCA 842 (CanLII)
C 388-391	Supervening Events	Penner v Mitchell	1978 ALTASCAD 201 (CanLII)
		Sunrise Co. v The Lake Winnipeg	1991 CanLII 107 (SCC)
C 428-446	Mitigation & Avoided	Erie County Natural Gas v Carroll	CB 54
	Loss	Cockburn v Trusts & Guarantee Co	CB 56
		Jamal v Moolla Dawood Sons	CB 58
		Slater v Hoyle & Smith	CB 63
		Sells Ltd v Thomson Stationery	CB 52
		Finelli v Dee	CB 52
		Southcott Estates v Toronto Catholic D.S.B.	2012 SCC 51 (CanLII)

Text	Topic	Assigned Cases	Case Found at
C 460-479	Date of Assessment	Asamera Oil v Brook	CB 96
		Wroth v Tyler	CB 122
		Johnson v Agnew	CB 138
B 617-639	Equitable Damages	306793 Ontario v Rimes	1979 CanLII 1845 (ONCA)
		Semelhago v Paramadevan	CB 147
		Inmet Mining v. Homestake Canada	2003 BCCA 610 (CanLII) facts
			& paras. 163-196
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
		Dobson v Winton & Robbins Ltd	CB 995
		Nagel's Debt Review Inc v Mosiuk	CB 1084
		Lucas v. 1858793 Ontario Inc. (Howard Park)	2021 ONCA 52 (CanLII)
		• 9725440 Canada Inc. v. Vijayakumar	2023 ONCA 466 (CanLII)
B 278-358	Injunctions	Fletcher v Bealey	CB 558
		Palmer v Nova Scotia Forest Industries	CB 564
		Redland Bricks v Morris	CB 576
		Miller v Jackson	CB 603
		MacMillan Bloedel v Simpson	CB 668
		1711811 Ontario v Buckley Insurance Brokers	2014 ONCA 125 (CanLII)
		Krieser v Garber	2020 ONCA 699 (CanLII)



B 23-80	Interlocutory	American Cyanamid v Ethicon	CB 699
	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)
		Blake v. University Health Network	2021 ONSC 7139 (CanLII)
B 161-212	Mareva Orders	Mareva Compania Naviera v Int'l Bulkcarriers	CB 782
		Aetna Financial Services Ltd v Feigelman	CB 786
		Z Ltd v A-Z and AA-LL Ltd	CB 806
		Trade Capital Finance v Cook	2017 ONSC 1857 (CanLII)
		10390160 Canada Ltd v. Casey	2022 ONSC 628 (CanLII)
B 214-249	Anton Piller Orders	Anton Piller KG v Manufacturing Processes Ltd	CB 819
		Celanese Canada Inc v Murray Demolition Corp	CB 827
		State Industries Ltd v. Summers Equipment	2020 MBQB 77 (CanLII)
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#### **Online Resources**

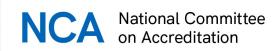
The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada (<a href="www.canlii.org">www.canlii.org</a>). That includes all decisions of the Supreme Court of Canada, and all 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.

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