



# 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.**



## Remedies

### 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)
- 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



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“C” = Cassels & Adjin-Tetty, *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 C 248-278 C 368-374 C 392-407	Damages for Breach	<ul style="list-style-type: none"> <li>• “The Reliance Interest in Contract Damages”</li> <li>• <i>Canlin v Thiokol Fibres Canada</i></li> <li>• <i>RG McLean v Canadian Vickers</i></li> <li>• <i>Ticketnet Corp v Air Canada</i></li> <li>• <i>Golden Strait v Nippon Yusen Kubishka Kaisha</i></li> <li>• <i>Ruxley Electronics and Construction v Forsyth</i></li> <li>• <i>Hamilton v Open Window Bakery</i></li> <li>• <i>Agribrands Purina Canada v Kasamekas</i></li> <li>• <i>Bowlay Logging v Domtar</i></li> <li>• <i>Sunshine Vacation Villas v Hudson’s Bay Co</i></li> <li>• <i>Fidler v Sun Life Assurance Co of Canada</i></li> </ul>	CB 263 CB 269 CB 279 CB 285 CB 290 CB 292 CB 299 2011 ONCA 460 (CanLII) CB 316 CB 320 CB 305
C 59-72	Tort Damages for Economic Loss	<ul style="list-style-type: none"> <li>• <i>Beaver Lumber v McLenaghan</i></li> <li>• <i>Budai v Ontario Lottery Corp</i></li> <li>• <i>VK Mason Construction v Bank of Nova Scotia</i></li> <li>• <i>Rainbow Industrial Caterers Ltd v CNR</i></li> <li>• <i>Messineo v Beale</i></li> </ul>	CB 328 1983 CanLII 3077 (ON SCDC) CB 333 CB 335 1978 CanLII 1570 (ONCA)



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Text	Topic	Assigned Cases	Case Found at
C 73-119	Damages for Harm to Property Interests	<ul style="list-style-type: none"> <li>• <i>Liesbosch Dredger v Edison Steamship</i></li> <li>• <i>O'Grady v Westminster Scaffolding</i></li> <li>• <i>Darbishire v Warran</i></li> <li>• <i>Bowman v Martineau</i></li> <li>• <i>Miller v Brian Ross Motorsports</i></li> <li>• <i>James Street Hardware v Spizziri</i></li> <li>• <i>Nan v Black Pine Manufacturing</i></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 style="list-style-type: none"> <li>• <i>Cassell &amp; Co Ltd v Broome</i></li> <li>• <i>Whiten v Pilot Insurance</i></li> <li>• <i>McCabe v Roman Catholic Episcopal Corp</i></li> </ul>	CB 178 CB 186 2019 ONCA 213 (CanLII)
C 388-391	Certainty and Causation	<ul style="list-style-type: none"> <li>• <i>Penner v Mitchell</i></li> </ul>	1978 ALTASCAD 201 (CanLII)
C 428-460	Mitigation & Avoided Loss	<ul style="list-style-type: none"> <li>• <i>Janiak v Ippolito</i></li> <li>• <i>Erie County Natural Gas v Carroll</i></li> <li>• <i>Cockburn v Trusts &amp; Guarantee Co</i></li> <li>• <i>Jamal v Moolla Dawood Sons</i></li> <li>• <i>Slater v Hoyle &amp; Smith</i></li> <li>• <i>Sells Ltd v Thomson Stationery</i></li> <li>• <i>Finelli v Dee</i></li> <li>• <i>Southcott Estates v Toronto Catholic D.S.B.</i></li> </ul>	CB 38 CB 54 CB 56 CB 58 CB 63 CB 52 CB 52 2012 SCC 51 (CanLII)



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Text	Topic	• Assigned Cases	Case Found at
C 460-479 B 449-452 B 465-475	Date of Assessment	<ul style="list-style-type: none"> <li>• <i>Asamera Oil v Brook</i></li> <li>• <i>Wroth v Tyler</i></li> <li>• <i>Johnson v Agnew</i></li> <li>• <i>306793 Ontario v Rimes</i></li> <li>• <i>Semelhago v Paramadevan</i></li> <li>• <i>Strategic Acquisition v Starke Capital</i></li> </ul>	CB 96 CB 122 CB 138 1979 CanLII 1845 (ONCA) CB 147 2017 ABCA 250 (CanLII)
B 269-312 B 348-381 B 313-347	Specific Performance	<ul style="list-style-type: none"> <li>• <i>Sky Petroleum Ltd v VIP Petroleum Ltd</i></li> <li>• <i>Semelhago v Paramadevan</i></li> <li>• <i>Harle v 101090442 Saskatchewan Ltd</i></li> <li>• <i>Aulakh v Nahal</i></li> <li>• <i>Falcke v Gray</i></li> <li>• <i>Beauchamp v Coastal Corporation</i></li> <li>• <i>Dobson v Winton &amp; Robbins Ltd</i></li> <li>• <i>Nagel's Debt Review Inc v Mosiuk</i></li> </ul>	CB 899 CB 957 CB 972 CB 981 CB 877 CB 1054 CB 995 CB 1084
B 22-57 B 66-86	Interlocutory Injunctions	<ul style="list-style-type: none"> <li>• <i>American Cyanamid v Ethicon</i></li> <li>• <i>Yule Inc v Atlantic Pizza Delight</i></li> <li>• <i>Mott-Trille v Steed</i></li> <li>• <i>R v Canadian Broadcasting Corporation</i></li> <li>• <i>City Wide Towing v Poole</i></li> </ul>	CB 699 CB 709 CB 724 CB 730 2020 ABCA 305 (CanLII)



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<b>Text</b>	<b>Topic</b>	<b>Assigned Cases</b>	<b>Case Found at</b>
B 184-226	Perpetual Injunctions	<ul style="list-style-type: none"> <li>• <i>Redland Bricks v Morris</i></li> <li>• <i>Miller v Jackson</i></li> <li>• <i>1711811 Ontario v Buckley Insurance Brokers</i></li> <li>• <i>Krieser v Garber</i></li> </ul>	CB 576 CB 603 2014 ONCA 125 (CanLII) 2020 ONCA 699 (CanLII)
B 103-137	Mareva Orders	<ul style="list-style-type: none"> <li>• <i>Mareva Compania Naviera v Int'l Bulkcarriers</i></li> <li>• <i>Aetna Financial Services Ltd v Feigelman</i></li> <li>• <i>Z Ltd v A-Z and AA-LL Ltd</i></li> <li>• <i>Trade Capital Finance v Cook</i></li> </ul>	CB 782 CB 786 CB 806 2017 ONSC 1857 (CanLII)
B 139-161	Anton Piller Orders	<ul style="list-style-type: none"> <li>• <i>Anton Piller KG v Manufacturing Processes Ltd</i></li> <li>• <i>Celanese Canada Inc v Murray Demolition Corp</i></li> </ul>	CB 819 CB 827



### Canadian Publishers

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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 ([www.canlii.org](http://www.canlii.org)). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your registration fee also includes free access to the Quicklaw resources of Lexis Nexis. 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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