

LAWS70402 Remedies in Commercial Law

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| Credit Points: | 12.50 |
| Level: | 7 (Graduate/Postgraduate) |
| Dates & Locations: | 2012, Parkville This subject commences in the following study period/s: September, Parkville - Taught on campus. |
| Time Commitment: | Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: Not available |
| Prerequisites: | None. |
| Corequisites: | None. |
| Recommended Background Knowledge: | Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience. |
| Non Allowed Subjects: | None. |
| Core Participation Requirements: | The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/ |
| Coordinator: | Prof Michael Bryan |
| Contact: | For more information, contact the Melbourne Law Masters office. Email law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au) or phone +61 3 8344 6190. Alternatively, visit our website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters) |
| Subject Overview: | The subject examines the remedies commonly awarded in commercial litigation. All the major common law, equitable and statutory remedies will be studied. The subject covers personal remedies, such as damages, as well as proprietary remedies, such as the constructive trust. The strategic selection of remedies in commercial disputes will be considered, and Australian law will be compared, where relevant, to the law of other major commercial law jurisdictions. Principal topics will include: # Damages in tort (excluding personal injuries) and for breach of contract, including issues of concurrency, where both tort and contract damages are available. Expectation and reliance damages and the protection of the 'performance interest' in contract. The role of liquidated damages clauses, and the penalties doctrine, will be considered, as well as the principles governing the award of exemplary and nominal damages |

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| | <ul style="list-style-type: none"> # Statutory damages awards, with particular reference to damages awarded under the <i>Competition and Consumer Act 2010</i> (Cth) # Equitable compensation for breach of equitable obligations, including breach of fiduciary obligation. Statutory damages under the <i>Chancery Amendment Act 1858</i> (Imp) and equivalent Australian legislation # Specific performance of contracts, with particular reference to the role of specific performance in common law and civil law jurisdictions # Injunctions, including a study of the interests protected in injunction litigation. Interlocutory orders, including Mareva orders # The account of profits as a remedy for equitable wrongdoing, and debates about the availability of the account of profits as a remedy for breach of contract # Proprietary remedies, with particular reference to the distinction between institutional and remedial constructive trusts. A comparison of the role of the constructive trust, in commercial litigation, in Australia, the United Kingdom and the United States. |
| Objectives: | <p>A student who has successfully completed this subject should:</p> <ul style="list-style-type: none"> # Understand the principles informing the award of remedies in Australian commercial law # Understand the strategic considerations involved in the selection of remedies in commercial litigation # Compare the Australian law governing commercial remedies to the law of other jurisdictions, including the United Kingdom and the United States. |
| Assessment: | 3 hour examination (100%) (9 November AM) or 10,000 word research paper (100%) (13 December) on a topic approved by the subject coordinator |
| Prescribed Texts: | Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Visit the Melbourne Law Masters website for more information about this subject. |
| Breadth Options: | This subject is not available as a breadth subject. |
| Fees Information: | Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees |
| Links to further information: | http://www.law.unimelb.edu.au/masters/courses-and-subjects/subject-details/sid/5227 |