

# LAWS70011 Commercial Applications of Equity

<b>Credit Points:</b>	12.5															
<b>Level:</b>	7 (Graduate/Postgraduate)															
<b>Dates &amp; Locations:</b>	2016, Parkville This subject commences in the following study period/s: August, Parkville - Taught on campus. This subject has a quota of 30 students. Please refer to the Melbourne Law Masters website for further information about the management of subject quotas and waitlists.															
<b>Time Commitment:</b>	Contact Hours: 24-26 hours Total Time Commitment: 136-150 hours The pre-teaching period commences four weeks before the subject commencement date. From this time, students are expected to access and review the Reading Guide that will be available from the LMS subject page and the subject materials provided by the subject coordinator, which will be available from Melbourne Law School. Refer to the Reading Guide for confirmation of which resources need to be read and what other preparation is required before the teaching period commences.															
<b>Prerequisites:</b>	None															
<b>Corequisites:</b>	<p><b>Melbourne Law Masters Students:</b> None</p> <p><b>JD Students:</b> Successful completion of all the below subjects:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50025 Torts</td> <td>November, Semester 2</td> <td>12.5</td> </tr> <tr> <td>LAWS50033 Trusts</td> <td>Semester 1</td> <td>12.5</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.5</td> </tr> <tr> <td>LAWS50030 Property</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50025 Torts	November, Semester 2	12.5	LAWS50033 Trusts	Semester 1	12.5	LAWS50029 Contracts	Semester 2	12.5	LAWS50030 Property	Semester 1	12.5
Subject	Study Period Commencement:	Credit Points:														
LAWS50025 Torts	November, Semester 2	12.5														
LAWS50033 Trusts	Semester 1	12.5														
LAWS50029 Contracts	Semester 2	12.5														
LAWS50030 Property	Semester 1	12.5														
<b>Recommended Background Knowledge:</b>	<p>This subject should not be undertaken by non-law graduates. Enquiries regarding the required level of background legal knowledge, subject content and assessment should be directed to the subject coordinator.</p> <p>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.</p>															
<b>Non Allowed Subjects:</b>	None															
<b>Core Participation Requirements:</b>	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 and critique 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 to 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 Student Equity and Disability Support.															
<b>Coordinator:</b>	Prof Elise Bant															

<b>Contact:</b>	<p><b>Lecturers</b></p> <p><b>Professor Elise Bant</b> (<a href="http://www.law.unimelb.edu.au/staff/Elise%20Bant">http://www.law.unimelb.edu.au/staff/Elise%20Bant</a>) (Coordinator)  <b>Mr William Swadling</b> (<a href="http://www.law.unimelb.edu.au/staff/William%20Swadling">http://www.law.unimelb.edu.au/staff/William%20Swadling</a>)</p> <p>Email: <a href="mailto:law-masters@unimelb.edu.au">law-masters@unimelb.edu.au</a> (<a href="mailto:law-masters@unimelb.edu.au">mailto:law-masters@unimelb.edu.au</a>)  Phone: +61 3 8344 6190  Website: <a href="http://www.law.unimelb.edu.au/masters">www.law.unimelb.edu.au/masters</a> (<a href="http://www.law.unimelb.edu.au/masters">http://www.law.unimelb.edu.au/masters</a>)</p>
<b>Subject Overview:</b>	<p>Equitable doctrines and remedies lie at the heart of commercial conduct, transactions and private law litigation. They provide unique standards of conduct that restrict and guide commercial dealings and a raft of powerful personal and proprietary remedies that dictate defendant liability when transactions fail. Over recent years their influence has been seen not only in important judicial decisions affecting commercial dealings, but in the raft of legislation that now builds on those equitable foundations. This subject considers some of the more pressing points of convergence between equitable doctrine and commercial practice, and examines their ongoing relationship with key statutory counterparts. In doing so, the subject is tightly structured to ensure that students are exposed to cutting-edge legal theory concerning court-led equitable developments and to the ramifications of those developments at the coal-face of commercial practice and dealings.</p> <p>This subject will be relevant to transaction lawyers involved in planning, initiating and drafting contracts, for corporate lawyers and regulators involved in consumer and banking law and for commercial litigators. The lecturers are internationally recognised experts in the commercial applications of equitable doctrines and remedies. They are also exceptional teachers, evidenced by the consistently outstanding results in the student experience surveys for this subject.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> <li># The role of equity in commercial transactions</li> <li># The nature of the fiduciary obligations, including the avoidance and 'management' of fiduciary conflicts</li> <li># Undue influence, mistakes and the enforcement of domestic guarantees in banking contexts</li> <li># <i>Quistclose</i> trusts</li> <li># The role of estoppel in commercial transactions</li> <li># Equitable remedies for breach of obligation, with special reference to gain-based awards and constructive and resulting trusts.</li> </ul>
<b>Learning Outcomes:</b>	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> <li># Have a specialised understanding of the relevance of equitable doctrines, remedies and related statutory provisions to modern commercial transactions</li> <li># Be able critically to examine and assess the interaction of equity and statute in resolving commercial disputes</li> <li># Understand the role of discretionary considerations that inform the application of doctrines and the award of equitable remedies</li> <li># Develop an independent understanding of the potential for further development in and interaction between equitable doctrines and remedies and their cognate statutory provisions</li> <li># Have the technical skills independently to examine, research and analyse equitable doctrines and remedies in the context of commercial transactions and disputes</li> <li># Have developed communication skills clearly to articulate and convey complex legal concepts both orally and in written form to legal specialist and non-specialist audiences.</li> </ul>
<b>Assessment:</b>	<p>Class paper presentation (10%) Take-home examination (5,000-6,000 words as specified in the subject reading guide) (90%) (9 - 12 September) or 10,000 word research paper (90%) (7 November) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.</p>
<b>Prescribed Texts:</b>	<p>Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.</p>
<b>Breadth Options:</b>	<p>This subject is not available as a breadth subject.</p>

<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Links to further information:</b>	<a href="http://www.law.unimelb.edu.au/subject/LAWS70011/2016">www.law.unimelb.edu.au/subject/LAWS70011/2016</a>
<b>Related Course(s):</b>	Graduate Diploma in Banking and Finance Law Graduate Diploma in Corporations and Securities Law Graduate Diploma in Legal Studies Juris Doctor Master of Banking and Finance Law Master of Commercial Law Master of Laws Master of Private Law