

LAWS70402 Remedies in Commercial Law

Credit Points:	12.5						
Level:	7 (Graduate/Postgraduate)						
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: June, 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.						
Time Commitment:	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.						
Prerequisites:	<p>Melbourne Law Masters Students: None</p> <p>JD Students: Successful completion of the below subject and appropriate practical experience in this field:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50027 Dispute Resolution	Semester 1	12.5
Subject	Study Period Commencement:	Credit Points:					
LAWS50027 Dispute Resolution	Semester 1	12.5					
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 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.						
Coordinator:	Prof Michael Bryan						
Contact:	<p>Lecturers</p> <p>Professor Emeritus Michael Bryan (http://www.law.unimelb.edu.au/staff/Michael%20Bryan) (Coordinator)</p> <p>Associate Professor Katy Barnett (http://www.law.unimelb.edu.au/staff/Katy%20Barnett)</p> <p>Email: law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au)</p> <p>Phone: +61 3 8344 6190</p> <p>Website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)</p>						

Subject Overview:	<p>This subject examines the remedies commonly awarded in commercial litigation. All the major common law, equitable and statutory remedies will be covered along with 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, with the law of other major commercial law jurisdictions.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # 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 # 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, will be examined # 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.
Learning Outcomes:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have the cognitive and technical skills to generate critical and creative ideas relating [to equality and discrimination in the workplace], and to critically evaluate [existing legal theories, principles and concepts with creativity and autonomy] # Have the cognitive and technical skills to independently examine, research and analyse [existing and emerging legal issues relating to equality and discrimination in the workplace] # Have the communication skills to clearly articulate and convey complex information regarding [equality and discrimination in the workplace] to relevant specialist and non-specialist audiences.
Assessment:	<p>3-hour examination (100%) (5 August, am) or 10,000 word research paper (100%) (7 September) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.</p>
Prescribed Texts:	<p>Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.</p>
Breadth Options:	<p>This subject is not available as a breadth subject.</p>
Fees Information:	<p>Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees</p>
Links to further information:	<p>www.law.unimelb.edu.au/subject/LAWS70402/2016</p>
Related Course(s):	<p>Graduate Diploma in Legal Studies Juris Doctor Master of Commercial Law Master of Laws Master of Private Law</p>