

# Remedies

*In this subject, CALI has Casebook Correlations and CALI Topic Grids available on the CALI website to aid you in assigning lessons.*

## CALI Lessons:

### Adjustments for Present Value and Future Inflation

The concept of "present value" is derived from the fact that any given sum of money has the capacity (if properly invested) to earn additional money over time. Indeed, it is this inherent earning power of money that gives rise to the requirement in most jurisdictions that "present value" adjustments must be made in every situation where damages representing future pecuniary losses are awarded. Part I of this Lessonette® tutorial is designed to explain why certain types of damage awards must be adjusted to their "present value," and to demonstrate precisely how those adjustments are actually calculated. The Lessonette also examines a variety of individual factors that should be taken into consideration in performing various types of "present value" adjustments. This Lessonette tutorial is intended for those students who already have a good working knowledge of the concept of pecuniary damages, including the various individual components of such damages, as well as how they are measured.

Part II of this Lessonette exercise addresses the related concept of adjusting future pecuniary damage awards to account for the potential effects of future economic inflation. This portion of the Lessonette examines in detail three specific methodologies for making such adjustments that were expressly articulated by the U.S. Supreme Court in its decision in *Jones & Laughlin Steel Corp. v. Pfeifer*, 462 U.S. 523, 76 L. Ed. 2d 768, 103 S. Ct. 2541 (1983).

This Lessonette is considerably longer than most CALI lessons, as it really contains two distinct portions, either of which can be completed separately, or at different sittings. However, the Lessonette as a whole is designed to be completed in its entirety, since adjustments to any future pecuniary damage award generally must take into account both the concept of "present value" as well as that of future inflation.

Students who are unfamiliar with any of the basic underlying damages concepts that are addressed in this Lessonette should consult subject-specific CALI lessons on damages before proceeding with this Lessonette. Finally, it should also be noted that although this Lessonette does address a number of specific mathematical formulas by which present value and related future inflation adjustments are made, students need not possess any high level of mathematical or computational skills beyond the most basic math proficiency to successfully complete this Lessonette.

**Lesson Completion Time:** 1 hour 15 minutes

**Author:** Edward Martin, Professor of Law, Samford University Cumberland School of Law

## Appealing Injunctions

When a preliminary or temporary injunction has been entered against a defendant, and the defendant believes that injunction is wrongfully issued, he has three choices in resisting the injunction: disobey and risk contempt; move to modify or terminate; or appeal.

This lesson explores that third option. Students may use this lesson for a basic tutorial on the subject by clicking on the links for research, which provide background instruction, or if students have studied this material elsewhere, they may test their knowledge by simply answering the questions provided without getting any hints. The lesson will focus primarily on the rules as they apply in the federal courts. While many (if not most) states have a similar approach to the federal system, students are advised to carefully research their own state's law regarding appeal of injunctions.

**Lesson Completion Time:** 30 to 90 minutes depending on the student's level of background preparation

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Characterizing Remedies

This exercise helps you to learn how to characterize a remedy as legal or equitable. This is a significant characterization, as many important substantive and procedural rights can turn on this characterization. This lesson is probably best studied in conjunction with a course in Equity or Remedies, though one can use the lesson for independent self study of the topic. You may want to study the CALI lessons History of Equity and Equitable Remedies - An Overview first. By the end of this lesson, you should be able to identify the characteristics of equity.

**Lesson Completion Time:** 30-45 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Compensatory Damages: Terminologies and Basic Concepts

This is the first in a series of lessons on the topic of "Compensatory Damages." It is designed as an "Introduction" to the overall concept of "compensatory damages" as well as to the key terminologies that are typically associated with these types of damages. For beginning law students, this Lesson should be completed first, before proceeding to any other Lessons that address more complex damages issues, as it contains a thorough presentation of the various terminologies and concepts that are unique to this specialized area of the law. Advanced law students may wish to use this Lesson as a review of these same basic "Damages" terminologies, either in preparation for other courses in which substantive Damages issues may be presented, or as a more general review. In either case, it is recommended that students proceed through this Lesson in the sequence presented, to gain a better understanding of the inter-relationships that exist among the various individual Damage-related terms and concepts.

**Lesson Completion Time:** 45 minutes

**Author:** Edward Martin, Professor of Law, Samford University Cumberland School of Law

## Contempt Overview

This lesson provides an overview of both criminal and civil contempt. It includes both direct and indirect contempt, as well as compensatory civil contempt and coercive civil contempt. It covers the differences among these types of contempt in their function and procedures and explores why it is important to distinguish among them.

**Lesson Completion Time:** 1.5 hours

**Author:** Elaine Shoben, Edward W. Cleary Professor of Law, University of Nevada William S. Boyd School of Law

## Damages for Harms to Interest in Use and Enjoyment

This lesson deals with the basic and specific measures of damages recoverable for tortious injuries to the interest in use and enjoyment of personal property. Students will be acquainted with conceptual and pragmatic problems of valuing the interest in use and enjoyment of personal property. The several methods used by the courts for valuing the interest are explored in the context of concrete problems. Topics include: cost of renting a substitute, inconvenience, the earning power that the chattel holds, and monetary interest calculated upon the value of the chattel.

**Lesson Completion Time:** 1 hour

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

# Damages for Harms to Interests in Physical Integrity of Personal Property

This lesson deals with basic and specific measures of damages recoverable in torts for harms to the interest in maintaining the physical integrity of personal property. Invasions of this interest are distinct from invasions of the interest in exclusive possession and the interest in use and enjoyment, and the law of damages reflects the differences. In order to deal effectively with the differences, separate lessons treat the interests in possession and use and enjoyment. The substance of causes of action available in torts for recovering damages is not treated here.

Before working in this lesson the student should complete the lessons on General Concepts of Damages in Torts and Fundamentals of Damages for Harms to Personal Property.

**Lesson Completion Time:** 1.25 hours

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

# Damages for Harms to Possessory Interests in Personal Property

This lesson deals with basic and specific measures of damages recoverable for tortious invasions of the interest in exclusive possession of personal property.

The student will be presented with concrete situations in which to consider application of rules and concepts of the law of damages. Analytically, invasions of the interest are separated into permanent deprivations and temporary deprivations and the different rules applicable to the two different contexts are explored.

Coverage of the topic includes introduction to the problems of: determining the relevant market for reference in valuing the chattel; valuing chattels which have fluctuating value; ascertainable value and the relevance of that term to the issue of whether prejudgment interest on the value of the chattel should be included as damages; rental value as a measure of loss of use; recoverability of damages for emotional distress for the deprivation, among others.

Before working on this lesson, the student should complete the lessons on General Concepts of Damages in Torts and Fundamentals of Damages for Harms to Personal Property. Basic and specific measures of damages recoverable for tortious invasions of the interest in exclusive possession of personal property.

**Lesson Completion Time:** 1 hour

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

## Damages for Harms to Real Property

This lesson deals with basic principles and measures of damages recoverable for harms to real property. The analysis to which students will be acquainted examines the harms in the context of three categories of interests to be protected by the law of damages. Those categories, which are separately treated in the lesson, are exclusive possession, physical integrity and use and enjoyment. The student will be given an opportunity to apply the principles and measures to concrete situations, some of which will raise issues about whether the principles and measures work well to protect the interests under examination. The lesson assumes the student is familiar with basic concepts of damages and has completed the lesson of that title.

**Lesson Completion Time:** 1 hour

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

## Damages for Injuries That Cause Death

This lesson covers the common law rules and various statutory approaches governing recovery of damages for injuries resulting in death. Questions and problems in the lesson consider the circumstances under which and the extent to which damages are available to protect the interests of persons who die as a result of tortious injuries and the interests of the survivors of those persons.

Students working on the lesson are required to solve problems by parsing and applying statutory language of survivor statutes and wrongful death statutes drawn from eleven different states. In one question, students are invited to construct their own statutory provision to address a problem of coordination between survival and wrongful death statutes.

Students who successfully complete the lesson will have a good working grasp of the different interests addressed by survival statutes and wrongful death statutes; how to calculate damages under each; and the limitations upon recovery that such statutes are likely to contain. Completion of the lesson on Damages for Personal Injuries prior to working on this lesson is highly recommended.

**Lesson Completion Time:** 1.5 hours

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

## Damages for Personal Injuries

This lesson covers the general principles and basic measures governing the remedy of damages for personal injuries. It explores issues and problems that confront a person seeking the damages remedy to address tortiously-inflicted physical harm.

The lesson considers the damages remedy by examining the general and special rules that govern legal protection of the interests in preserving bodily integrity, mental integrity, and ability to pursue a livelihood. In a series of situations presenting harms to those interests, the student will be asked to analyze the situations, then select, apply and assess those rules.

Working on the problems in the lesson will expose the student to concepts such as ascertainability; the collateral source rule; loss of earnings capacity; mental anguish; pain and suffering; prejudgment interest; reduction to present value; and work life expectancy among others.

A separate lesson, Damages for Injuries that Cause Death, deals with the issues and problems of remedying the ultimate physical injury. Before working in this lesson the student should first complete the lesson on General Concepts of Damages in Torts.

**Lesson Completion Time:** 1.5 hours

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

## Defamation Remedies

This lesson examines remedial options in defamation litigation. Included within the scope of this lesson are the remedies of injunctions and damages. These remedies are examined from both a common law and constitutional perspective. This lesson is designed for students who have studied this material in class and wish to refine and develop their knowledge.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Election of Remedies Doctrines

This lesson explores the many uses of the doctrine of election of remedies. Students will discover that attorneys will invoke the doctrine of election of remedies to enforce statutory or contractual exclusivity of remedy; to require plaintiffs to be bound by their intentional choice; to protect defendants from prejudice due to their detrimental reliance on plaintiff's actions; to eliminate double recovery for the same wrong; or to eliminate splitting and relitigation of claims. By working through the problems in this lesson, students will become familiar with the many different purposes of the doctrine and recognize the overlap with other remedial doctrines, such as waiver, estoppel, laches, and res judicata.

**Lesson Completion Time:** 45-60 minutes, depending on student's prior study

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Employee Damage Remedies

When an employer breaches an employment contract, the employee might seek any of several different types of remedies. In general, it will be difficult (if not impossible) for the employee to obtain injunctive relief against the employer. As a result, most of the litigation focuses on damages and the level of recovery that an employee might obtain against a breaching employer. This lesson focuses on the employee damage remedy, and is intended for students who have studied these issues in class and wish to refine their knowledge.

**Lesson Completion Time:** 45 minutes (25 minutes without the essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Employee Injunctive Remedies

This lesson focuses on employee injunctive remedies against an employer. The issues raised by this lesson arise in a variety of different contexts, involving both low-level employees and famous individuals. They also involve various types of injunctive requests (e.g., attempts to enforce contracts, as well as for defamation). This lesson is intended for students who have studied these issues in class and wish to refine their knowledge.

**Lesson Completion Time:** 45 minutes (25 minutes without essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Employer Damage Remedies

This lesson deals with issues related to an employer's damage remedies for breach of an employment contract. As we shall see, employers might be able to claim various types of remedies depending on the circumstances and context. This lesson is intended for students who have studied these issues in class and wish to expand and refine their knowledge.

**Lesson Completion Time:** 45 minutes (25 minutes without the essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Employer Injunctive Remedies

This lesson deals with issues relating to an employer's ability to use injunctive remedies against an employee who breaches a contract. In addition to examining issues relating to affirmative and negative specific performance, it also examines covenants not to compete. The lesson is intended for students who have studied these issues in class and wish to refine their knowledge.

**Lesson Completion Time:** 1 hour (45 minutes without the essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Equitable Discretion

In this Lessonette® exercise, we examine the concept of equitable discretion and gain insight into equitable precedent on the subject. This lesson was designed for use by students who have completed study of this topic in their basic remedies class, and want to further refine and expand their understanding of the concept.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Equitable Protection of Restitution: The Accounting for Profits

This lesson will cover the remedy known as the Accounting for Profits. Frequently, this remedy is not covered extensively in the classroom setting, probably because the accounting for profits often accompanies other remedies which receive greater attention. Consequently, this lesson is designed to provide basic coverage of this remedial option. Another lesson, "Equitable Protection of Restitution: The Constructive Trust and Equitable Lien" is recommended. Taken together, students will learn when each form of



relief is available, the advantages and disadvantages that each form offers and, when the choice is available, the strategic implications of choosing one form over another.

**Lesson Completion Time:** 25 minutes

**Author:** Nora Pasman-Green, Professor of Law, Thomas M. Cooley Law School

## Equitable Protection of Restitution: The Constructive Trust and Equitable Lien

This lesson will cover two of the most powerful equitable remedies, the Constructive Trust and the Equitable Lien. This lesson is intended to supplement your classroom study of these remedial tools, and to explore their utility more deeply. Another lesson, "Equitable Protection of Restitution: The Accounting for Profits," is recommended. Taken together, students will learn when each form of relief is available, the advantages and disadvantages that each form offers and, when the choice is available, the strategic implications of choosing one form over another.

**Lesson Completion Time:** 1 hour 15 minutes

**Author:** Nora Pasman-Green, Professor of Law, Thomas M. Cooley Law School

## Equitable Remedies - An Overview

This exercise gives a basic overview of the types of equitable remedies. You need not have read any particular materials or taken any particular law school courses in order to complete the tutorial. It can be used to provide background in your courses where equity is especially relevant or to review the types of equitable remedies for use in a remedies course. The lesson will not examine doctrines of substantive equity (other than to note their existence) nor will the lesson explore the prerequisites for obtaining, defending against, or enforcing equitable remedies. Rather, the lesson is designed to introduce you to the basic vocabulary of equitable remedies.

**Lesson Completion Time:** 45 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Framing Injunctions

This exercise is intended for students who have studied this issue in class, and wish to refine and apply what they have learned. It includes several essay questions, along with their model answers.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

# Fundamentals of Damages for Harms to Personal Property

This lesson serves as background and foundation for other lessons on damages for harms to personal property. It deals with general principles and basic measures of damages recoverable for harms to personal property. The lessons on harms to possessory interests, harms to integrity interests and harms to the interest in use and enjoyment of personal property all will delve more deeply into the intricacies of damages law in this area.

Students will first be introduced to the interests of owners of personal property that are compensated in the law of damages. Then, in problems which raise some fundamental issues, they will be presented with the basic measures of damages. Later, some alternatives to the basic measures will be briefly explored, and students will be introduced to the "Rule of Certainty" in the proof of damages. The substantive causes of action available for recovering damages for harms to personal property are ignored in this lesson.

In addition to working in this lesson, the student should also work in the lesson on General Concepts of Damages in Torts to get a basic grounding in the area of torts damages.

**Lesson Completion Time:** 1.5 hours

**Author:** Lawrence Wilkins, William R. Neale Professor of Law Emeritus, Indiana University - Indianapolis School of Law

## History of Equity

This lesson provides a basic history of equitable remedies. The student need not have read any particular materials or taken any particular law school courses in order to complete the tutorial. It can be used to provide background in courses where equity is especially relevant or to review the history of equity for use in a remedies course. The lesson will not examine doctrines of substantive equity (other than to note their existence) nor will the lesson explore the prerequisites for obtaining, defending against, or enforcing equitable remedies.

**Lesson Completion Time:** 30-45 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## In Personam Remedies

This lesson is intended for students who have studied equity and, in particular, in personam remedies in class, and who wish to obtain a further and deeper understanding of the topic.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Injunctions Against Civil Litigation

This lesson focuses on injunctions against litigation. This issue arises in several different contexts, including intra-jurisdictional state court injunctions, state court injunctions against litigation in other states, state court injunctions against federal litigation, and federal court injunctions against state litigation. The lesson is intended for students who have studied these topics in class and wish to refine and enhance their knowledge.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Injunctions Against Speech I [Judicial Orders (frequently Injunctions) & Speech]

This Lessonette® exercise focuses on issues relating to injunctions against speech. It is designed for students who have studied these issues in class, and who have a strong working knowledge of the material, but who wish to further refine and develop their understanding. This Lessonette exercise has 12 main questions (and a number of subparts).

**Lesson Completion Time:** 1 hour

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Injunctions Against Speech II

This is the second Lessonette® exercise involving injunctions against speech. The first Lessonette exercise focused on various aspects of injunctions against speech including injunctions against defamation, obscenity and related to national security. In this Lessonette exercise, we focus on some issues that arise in relation to injunctions against civil rights demonstrations including abortion and civil rights protests. Much of the law that governs these issues is basic constitutional law.

This Lessonette exercise is intended for students who have studied the material in class, and are seeking to review, test and refine their knowledge. It is NOT an introductory Lessonette exercise and is NOT for students who have not studied the material.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Injunctions Against Speech III

This is the third in a series of lessons on injunctions against speech. This lesson focuses on injunctions against invasions of privacy. The lesson is intended for students who have studied this material in class and who seek to refine their knowledge.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Injunctions: Crime & Criminal Prosecutions

This lesson focuses on problems related to injunctions against crimes and against criminal prosecutions. The lesson is intended for students who have studied the topic in class and seek to expand and refine their knowledge of the topic.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Interests Protected

This Lessonette® exercise is one of a series on the topic of "Compensatory Damages." This particular Lessonette interactive tutorial explores the differences among each of the three main types of legally-protected "interests" most commonly involved in any damages case: the expectation interest, the reliance interest, and the restitution interest. It is designed as an "Introduction" to the basic distinctions among each of these different interests, as well as a practical guide to determining when one interest should be asserted instead of another. For beginning law students, this Lessonette interactive tutorial should not be attempted until the "Basic Terminologies in Compensatory Damages" Lessonette has been completed. Students who have already completed foundational courses in "Contracts" may wish to use this Lessonette exercise as a review of these same basic "Damages" terminologies, or to better understand more complex issues presented by other courses in which substantive Damages issues or remedies issues may be presented. For comparative purposes designed to illustrate the various distinctions among each of these three different types of legally-protected damages "interests," this Lessonette exercise focuses primarily upon contract damage examples.

**Lesson Completion Time:** 45 minutes

**Author:** Edward Martin, Professor of Law, Samford University Cumberland School of Law

## Irreparable Injury

This Lessonette® interactive exercise is intended for students who have studied irreparable injury in class, and want to expand and refine their knowledge.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Libel and Slander

One of the difficult common law issues in defamation was the distinction between libel and slander. This lesson explains the differences between the two types of defamatory statements. Material is provided on the damage requirements of both. This lesson is part of a series about defamation. One should review the lesson on Basic Issues in Defamation and Privileges before working with this exercise. After finishing this one, the exercise on Constitutional Issues in Defamation should be covered.

**Lesson Completion Time:** 30 minutes

**Author:** Ronald Eades, Professor of Law Emeritus, Louis D. Brandeis School of Law at the University of Louisville

## Modifying Injunctions

This lesson focuses on the problem of modifying injunctions. As we shall see, even though an injunction is labeled as "permanent," it is subject to modification or alteration. Indeed, some injunctions, even some far reaching ones, are not intended to last forever. In this lesson, we examine the standards and criteria by which courts decide whether to terminate or modify existing injunctions. This lesson is intended for students who have studied these issues in class, and wish to refine and enhance their knowledge.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Non-Economic Damages: Proof and Argument

This lesson covers the availability of non-economic damages; evidentiary issues in proving these damages; and issues in the argument to the jury of these damages. This lesson gives you an opportunity to explore the "how to" of non-economic damages, particularly damages for pain and suffering and mental or emotional distress. The lesson is designed for upper-level students in remedies, advanced torts, or trial practice courses. Students should have some basic knowledge of both tort law and evidence law. First-year students may find the lesson accessible by making use of the pop-up screens providing background on concepts and rules.

**Lesson Completion Time:** 40 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Preliminary Injunctive Relief

This Lessonette® exercise deals with the requirements for preliminary injunctive relief, and includes both temporary injunctions and temporary restraining orders. It is designed for students who have already studied this material in class, and desire to refine their understanding of the matter by applying it in various contexts.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Recovery of Attorneys Fees

Expense is a significant factor in any litigation. In deciding whether a judicial remedy is worth pursuing, parties must consider the cost of obtaining that remedy. The "American Rule" provides that parties to a lawsuit ordinarily pay their own attorney's fees, unless a

statute or contract provides that fees can be shifted to the opponent. As it is fundamental to the litigation landscape, you may have touched on this doctrine in a number of your law school classes.

This lesson reviews the "American Rule," and the major exceptions to that rule. The lesson focuses on rules that shift responsibility for fees to one's opponents in litigation. The first two parts of the lesson review the major exceptions to the American Rule that allow attorney's fees may be awarded as part of the judgment in a case where a statute or contract provides for this shifting of costs.

**Lesson Completion Time:** 50 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Restitution & Volunteers

When defendant has been unjustly enriched at plaintiff's expense, plaintiff is entitled to seek restitution. Among the rules and principles that qualify a plaintiff's right to seek restitution is the notion that a "volunteer" is not entitled to seek restitution. In this lesson, we explore the concept of "volunteer" in an effort to determine who should be regarded as a volunteer and who should not. The lesson is intended for those who have studied these issues in class and wish to further refine their knowledge.

**Lesson Completion Time:** 45 minutes (25 minutes without the essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Restitution - Emergency Situations

The action for restitution allows recovery in a variety of contexts when the defendant would be "unjustly enriched" if he/she were not required to pay restitution. One of those contexts is the situation in which one person acts on behalf of another in the case of an emergency situation requiring immediate action. In this lesson, we explore the parameters of an individual's right to recover restitution for providing aid to another in an emergency situation. Of course, as an inevitable incident of this discussion, we will explore situations when recovery should be denied. This lesson is intended for students who have studied these issues in class and wish to further refine their knowledge.

**Lesson Completion Time:** 30 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Restitution - Mistake of Fact

A right to restitution arises when one person is "unjustly enriched" at the expense of another. One context in which restitution is sometimes sought is when payments are

made under a "mistake of fact." The situations and contexts in which mistake of fact arise are quite varied. In this lesson, we examine some of the situations and contexts, and extract general principles regarding the right to restitution for mistaken payments. This lesson is intended for students who have studied these issues in class and who wish to further refine their knowledge.

**Lesson Completion Time:** 45 minutes (25 minutes without the essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Restitution: Unjust Enrichment

This Lessonette® exercise is intended for students who have studied restitution in class, and who wish to expand and refine their knowledge of the topic. The Lessonette interactive tutorial deals with the basics of restitution (what constitutes "unjust enrichment"), and how is it measured. Little attempt is made to deal with more sophisticated aspects of restitution such as tracing, equitable liens, constructive trusts, etc. These topics are covered in another Lessonette interactive tutorial.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Right to Jury Trial

This lesson examines the Seventh Amendment to the United States Constitution, and its provision for a right to trial by jury in civil cases. The lesson examines the right from a historical perspective, as well as in terms of its modern applications. It also examines related doctrines such as the "equitable cleanup" doctrine. This lesson is intended for students who have studied these issues in class and wish to refine their knowledge of this right.

**Lesson Completion Time:** 45 minutes (30 minutes without the essay)

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville

## Ripeness and Mootness

This lesson introduces students to the concepts of ripeness and mootness. This lesson is geared to students who have studied these concepts in class (perhaps some time ago in their constitutional law classes) and wish to delve into the subject more deeply.

**Lesson Completion Time:** 45 minutes

**Author:** Russell Weaver, Professor of Law and Distinguished University Scholar, Louis D. Brandeis School of Law at the University of Louisville



## The Equitable Defense of Laches

This lesson covers the defense of laches to an equitable action. Students will learn when the defense applies, the elements necessary to establish the defense, and how courts consider the defense. Students will also learn to distinguish laches from the related defenses of Estoppel and the Statute of Limitations.

**Lesson Completion Time:** 1 hour

**Author:** Nora Pasman-Green, Professor of Law, Thomas M. Cooley Law School

## The Policy Debate over Attorney's Fees Rules

This lesson is a companion tutorial to the interactive Lessonette® tutorial "Recovery of Attorney's Fees." This lesson reviews the policy debate over the American Rule vs. the English Rule. In this lesson, you can judge a debate regarding which approach to attorney's fees rules is better policy.

**Lesson Completion Time:** 20-30 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## Tracing

This lesson reviews the process of tracing wrongfully diverted money or property through a series of exchanges. Students are expected to have a basic familiarity with in-specie remedies such as replevin and constructive trust. The lesson provides problems for students to consider practical evidentiary issues in locating and proving the identity of property and to practice the application of rules for tracing funds into and out of commingled accounts. The lesson will be most useful for review by students in remedies, debtor-creditor, or bankruptcy courses.

**Lesson Completion Time:** 40 minutes

**Author:** Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law, University of Missouri - Kansas City School of Law

## UCC Remedies: An Introduction

This lesson demonstrates how the principles of remedies are found in the UCC and provides some guidance for working with the UCC. This lesson may be run either as an introduction before the material is studied or as a review after it is studied.

**Lesson Completion Time:** 30 minutes

**Author:** Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

## UCC Remedies: Buyer's Remedies When the Seller is in Breach

This lesson explores the remedies that are available in UCC Article 2 for the Buyer when the Seller is in breach. We first examine the remedies when the Seller has the goods, and then when the Buyer has the goods. This lesson may be run either as an introduction before the material is studied or as a review after it is studied.

**Lesson Completion Time:** 1 hour

**Author:** Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

## UCC Remedies: Seller's Remedies When Buyer is in Breach

This lesson explores the remedies that are available in UCC Article 2 for the Seller when the Buyer is in breach. We first examine the remedies when the Buyer has the goods, and then when the Seller has the goods. This lesson may be run either as an introduction before the material is studied or as a review after it is studied.

**Lesson Completion Time:** 1 hour

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## Unclean Hands

This is a lesson on the equitable defense of unclean hands. The first part of the lesson is designed to introduce the basics of the concept for students before and during its study in class. The "Review" questions at the end are an aide for students who have completed their study, either through class work or this lesson. Students who want simply to review in anticipation of a final exam can go straight to the Review materials and backtrack only as necessary for understanding questions missed.

Unclean hands is one of the "conscience defenses" in equity. The conscience defenses act to bar equitable suitors whose claims are in some way morally tainted even if they are legally sound. Thus, a suitor cannot receive equitable relief if the equitable defense applies even though legal relief may still be available. Other conscience defenses include laches, estoppel, and unconscionability, which are covered in other CALI lessons.

**Lesson Completion Time:** 40 minutes

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