

RESTITUTION – UNJUST ENRICHMENT

ACKNOWLEDGEMENTS

UBC's Point Grey Campus is located on the [traditional, ancestral, and unceded](#) territory of the xwməθkwəyəm (Musqueam) people. The land it is situated on has always been a place of learning for the Musqueam people, each generation having passed on their culture, history, and traditions on this site.

This Syllabus was prepared with reference to the syllabi of Justice Geoffrey Gomery and Mr Peter Senkpiel (2019) and Professor Lionel Smith (2008 & 2019).

COURSE AND CONTACT INFORMATION

Course Title	Course Code	Term	Credit Value	Teaching Times & Room
Restitution – Unjust Enrichment	LAW 436	Autumn 2022	3	9:30am–11:00am, Tuesdays & Thursdays Room 111
Course Instructor	Email Address	Office Location	Office Hours	
Assistant Professor Samuel Beswick	beswick@allard.ubc.ca	Allard Hall 444	By appointment.	

COURSE DESCRIPTION

The law of obligations concerns the legal rights and duties owed between people. Three primary categories make up the common law of obligations: tort (wrongs), contract (agreements), and unjust enrichment (unjustified gains). The law of unjust enrichment steps in when transactions go awry—when a defendant gains a benefit to the detriment of a plaintiff, and “there is no reason in law or justice for the defendant’s retention of the benefit conferred by the plaintiff” (*Kerr v. Baranow*, 2011 SCC 10, [2011] 1 SCR 269, [40]). Restitution—reversing the transaction—is the typical response to unjust enrichment.

This third category of the law of obligations is significant to all sorts of civil disputes—especially in the areas of mistaken payments or benefits, the division of family property, and failed commercial transactions. It is rapidly being developed in contemporary case law and scholarship. Yet, the law of unjust enrichment and restitution is often overlooked and misunderstood by lawyers. The objective of this course is to provide students with an understanding of the essential legal doctrine and controversies as they exist both in the classroom and courtroom.

LEARNING OBJECTIVES

- Understand and apply the fundamental doctrine and concepts that underpin Canada’s modern unjust enrichment framework.
- Understand the core controversies and difficulties within the law of unjust enrichment today.

MATERIALS

Casebook: Order and collect from the UBC Bookstore:

[https://the.bookstore.ubc.ca/CourseSearch/?course\[\]=UBC,2022W1,LAW,LAW%20436,001](https://the.bookstore.ubc.ca/CourseSearch/?course[]=UBC,2022W1,LAW,LAW%20436,001).

(Casebook page numbers are referenced in this syllabus with a reverse-pilcrow symbol: ¶).

Course website: <https://blogs.ubc.ca/beswick/restitution/>

Optional reference reading:

Canada

- Geoffrey Gomery, “Unjust Enrichment”, ch.3 of *British Columbia Business Disputes* (CLEBC, 2016) ([CLE Online](#)) (a practitioner-oriented treatment of the subject).
- Peter Maddaugh & John McCamus, *The Law of Restitution* (Canada Law Book, 2004) (looseleaf) ([UBCL](#)) (a contextual “foxy” treatment of the subject).
- John McCamus, *An Introduction to Canadian Law of Restitution and Unjust Enrichment* (Thomson Reuters, 2020) ([TR Canada](#)) (a contextual “foxy” treatment of the subject).
- Mitchell McInnes, *The Canadian Law of Unjust Enrichment and Restitution* (LexisNexis, 2014) ([UBCL](#)) (a conceptual “hedgehog” treatment of the subject).
- G.H.L. Fridman, *Restitution* (2nd ed., Carswell, 1992) ([UBCL](#)) (out of date).
- George B. Klippert, *Unjust Enrichment* (Butterworths, 1983) ([UBCL](#)) (out of date).

Edited Compilation

- Warren Swain & Sagi Peari (eds), *Rethinking Unjust Enrichment: History, Sociology, Doctrine and Theory* (OUP, forthcoming 2023), <https://rethinking-unjust-enrichment.com/>.
- Elise Bant, Kit Barker & Simone Degeling (eds), *Research Handbook on Unjust Enrichment and Restitution* (Edward Elgar Publishing, 2020) ([UBCL](#)).

England & Wales

- Peter Birks, *Unjust Enrichment* (2nd ed., OUP, 2005) ([UBCL](#)).
- Andrew Burrows (ed), *A Restatement of the English Law of Unjust Enrichment* (OUP, 2013) ([UBCL](#)).
- Charles Mitchell, Paul Mitchell & Stephen Watterson (eds), *Goff & Jones: The Law of Unjust Enrichment* (9th ed., Sweet & Maxwell, 2016) ([UBCL](#)).
- Charles Mitchell, “Unjust Enrichment” in Andrew Burrows (ed), *English Private Law* (3rd ed., OUP, 2013) ([UBCL](#)).

United States

- American Law Institute, *Restatement (Third) of Restitution & Unjust Enrichment* (2011) ([UBCL](#)).
- Andrew Kull & Ward Farnsworth, *Restitution and Unjust Enrichment: Cases and Notes* (Wolters Kluwer, 2018) ([WK Legal](#)).
- “Developments in the Law: Unjust Enrichment” (2020) 133 Harv. L. Rev. 2062, 2062-2171 ([HLR](#)).

TEACHING METHODS & EXPECTATIONS

Reading Format

This course is structured around the modern Canadian case law on restitution for unjust enrichment. Assigned readings are posted on [Canvas](#) and should be completed ahead of each class.

We will generally read one new (edited) case for each class, as indicated in **bold** font on the syllabus below. As we progress through the syllabus we will build up our understanding of the law both by reference to the new cases we encounter and by referring back to previously read cases. Our understanding will be supplemented by reading extracts from secondary sources, per the Readings Schedule below.

On-Call Teams

The class will be organised into four teams (approximately five students per team), named as follows: Bruins, Celtics, Patriots and Red Sox. Teams will take turns being “on call”, as shown in the anticipated Topic Schedule below. “On call” team members can expect to engage with me in discussing the day’s topic. The idea of having teams is to fairly distribute class contributions and to lessen the stress of attending classes. That said, students are absolutely welcome *and encouraged* to contribute to class discussions on any day!

You should [sign up for your On-Call Team](#) via Canvas (under the ‘People’ tab) during the first week of classes, beginning Tuesday, September 6. Team rosters will be filled on a first-come, first-served basis. If you have not signed up by 5pm PT on Thursday, September 8, I will randomly allocate you to a team.

Team members may, but are not obliged to, work together in preparing for class. Once team rosters have been filled, students cannot withdraw or trade places without my permission. If a change needs to be made, the affected student(s) should email me to explain and request an amendment to the team rosters.

Teaching Tools

This course will be taught using:

- [Canvas](#)—where all course materials and announcements will be posted.
- [Casebook](#), [casebook contents](#) and materials referenced in this syllabus.
- [Zoom](#) livestream conferencing platform as needed.

Expectations

Attendance and timeliness: Students are expected to attend all classes in person. Students should be punctual and should not leave classes early. I recognise that this will be more difficult for some students and that exceptions will need to be accommodated. If you are unable to attend a class, in part or in entirety, please send me a brief email. (I will read it, although I may not be able to respond promptly.)

Students should email to ask to join class **via Zoom** on the occasions physical presence is not possible. I prefer physically absent students to attend classes remotely via live Zoom rather than request a recording after class (see Recording Policy below). All students attending via Zoom should keep their cameras on.

Preparation: Students should do the assigned readings ahead of class. Classes will be taught on the assumption that students have read the materials.

Respect: Students must treat each other with respect. This means treating people as you would like to be treated. Critique ideas, not each other. Be generous when others (are perceived to) make mistakes. Remember that you do not know peoples’ past experiences, so try not to make assumptions about them.

Communication: I encourage participation and questioning. If something is unclear, please let me know—either by speaking up during class or attending office hours. So that everyone has a fair opportunity to receive content about the course, I prefer not to respond to individual questions by email.

Distractions: Do not distract yourself or others during class. Cell phones and music devices must be switched off. Web browsing, social media, email, etc, are prohibited during class time. Students who break this rule may be asked to leave the class.

Help: Students are encouraged to work together in study groups to prepare for classes and exams, subject to the University's strict Plagiarism Policy (below). Your first port of call when grappling with questions in this course should be each other. You should also feel free to reach out to me.

Look out for your, and each other's, wellbeing. If you or someone you know is struggling, there are a wealth of [Wellbeing Services](#) at Allard Law. Your tuition helps to provide these resources, so use them!

EVALUATION

10% class participation and 90% 3-hour take-home exam.

The [Examination & Grading Rules](#) are posted on the Allard Law website, as are [past exams](#). Exam marking will be informed by the [Grading and Mark Distribution Guidelines](#) and by my Exam Answer Rubrics.

TOPIC SCHEDULE

This is the anticipated schedule of dates on which we will address topics in class. Any revisions to this schedule will be updated on Canvas as necessary throughout the term.

The §§ markers correspond to the reading assignments set out in the Reading Schedule below.

Date	On-call Team	Topic	§§	Primary case(s)
Sep-06		Introduction	1	
Sep-08		Introduction	1	
Sep-13	Bruins	Making sense of the law	2	<i>Peel Municipality v. Canada & Ontario</i>
Sep-15	Bruins	Benefit	3 - 3.1	<i>Gidney v. Shank</i>
Sep-20	Celtics	Benefit	3.2 - 3.2.1	
Sep-22	Celtics	Benefit	3.2.2 - 3.2.4	<i>Stevedest Machinery & Engineering Ltd. v. Metso Paper Ltd.</i>
Sep-27	Patriots	Deprivation	4 - 4.1.3	<i>Moore v. Sweet</i>
Oct-04	Red Sox	Deprivation	4.1.4 - 4.2	<i>Sun Rype Products Ltd v. Archer Daniels Midland Co.</i>
Oct-06	Red Sox	Juristic reasons overview	5	<i>Garland v. Consumers' Gas Co.</i>
Oct-11	Patriots	JR - Gift	5.1	<i>Pacific National Investments Ltd. v. Victoria City</i>
Oct-13	Patriots	JR - Contract	5.2	<i>Kim v. Choi + Atlantic Lottery Corp. Inc. v. Babstock</i>
Oct-18	Bruins	JR - Disposition of law	5.3	<i>Gladstone v. Canada</i>
Oct-20	Bruins	JR - Other	5.4	<i>Kerr v. Baranow</i>
Oct-25	Celtics	JR - Residual reason	6 - 6.2	
Oct-27	Celtics	Defences	7.1	<i>RBC Dominion Securities Inc. v. Dawson</i>
Nov-01	Red Sox	Defences	7.2 - 7.4	<i>Pro-Sys Consultants Ltd. v. Microsoft Corp.</i>
Nov-03	Red Sox	Defences	7.5	<i>Louie v. Lastman</i>

Nov-08	Patriots	Remedies - personal	8.1 - 8.1.4	<i>BMP Global Distribution Inc. v. Bank of Nova Scotia</i>
Nov-15	Bruins	Remedies - proprietary	8.2 - 8.2.4	<i>BNSF Railway v. Teck Metals Ltd.</i>
Nov-17	Celtics	Remedies - proprietary	8.2 - 8.2.4	
Nov-22	Red Sox	Public law	9	<i>Kingstreet Investments Ltd. v. New Brunswick</i>
Nov-24	Patriots	Separate UF approaches	10	<i>ILWU Canada Local 502 v Ford</i>
Nov-29		Debates and controversies	11	
Dec-01		Review	12	
Dec-19		Take-home exam		

READING SCHEDULE

This schedule of readings corresponds to the topics in the list above. **Bold** font indicates new readings, whereas nonbold font indicates cases we have already read. Students should do the assigned readings ahead of class. Classes will be taught on the assumption that students have read the materials.

Overview of Topics

1	Introduction	5
2	Making Sense of the Law	5
3	Benefit (enrichment) of Δ	6
4	Corresponding Deprivation of Π	6
5	(Absence of) Juristic Reason	7
6	(Absence of) Residual Reason for Δ 's Retention (Δ 's burden of proof)	8
7	Defences	8
8	Remedies	9
9	Restitution in Public Law	10
10	Separate "Unjust Factors" Frameworks in Canada?	11
11	Debates and Controversies	11
12	Exam Review	11

1 Introduction

- Lord Denning, "Book Review: The Law of Restitution" (1967) 83 L.Q.R. 277: ¶252-253.
- Chaim Saiman, "Restitution in America: Why the US Refuses to Join the Global Restitution Party" (2008) 28 OJLS 99, 99-103: ¶254-258.
- Lionel Smith, "Unjust Enrichment" (2020) 66 McGill L.J. 165: ¶259-262.
- Geoffrey Gomery, "Unjust Enrichment" in CLEBC (ed), *British Columbia Business Disputes* (2016), 3-3: ¶263.

2 Making Sense of the Law

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC): ¶1-16.

- Mitchell McInnes, *The Canadian Law of Unjust Enrichment and Restitution* (LexisNexis, 2014), 225-227: ¶271-273.
- Andrew Burrows, *A Restatement of the English Law of Unjust Enrichment* (OUP, 2013), 9-16 (skim): ¶276-283.

2.1 Canada's Unjust Enrichment Framework

1. Benefit (enrichment) of the defendant (Δ)
2. Corresponding deprivation of the plaintiff (Π)
3. (Absence of) juristic reason for the enrichment:
 - a. Absence of juristic reason (Π's burden of proof) [Presence of unjust factor(s)?]
 - b. Absence of residual reason for Δ's retention (Δ's burden of proof)

3 Benefit (enrichment) of Δ

- Peter Birks, *Unjust Enrichment* (2nd ed., OUP, 2005), 49-63, 71: ¶284-299.

3.1 Objective benefit? (Π's burden of proof)

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB); *rev'd*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA): ¶17-29.

3.2 Subjective value of the benefit to Δ? (Δ's burden of proof)

- Lionel Smith, "Restitution: A New Start?" in Peter Devonshire & Rohan Havelock (eds), *The Impact of Equity and Restitution in Commerce* (Hart, 2018), 101-103: ¶310-312.

3.2.1 Autonomy: Request; free acceptance; readily returnable benefit

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB), [44]-[55]; *rev'd*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA), [13]-[18]: ¶23-26, 28-29.

3.2.2 Incontrovertible benefit

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [34]-[52]: ¶9-14.
- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB), [44]-[55]; *rev'd*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA), [13]: ¶23-26, 28.
- *Steved Machinery & Engineering Ltd. v. Metso Paper Ltd.*, 2014 BCCA 91: ¶30-41.

3.2.3 Subjective devaluation

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB), [44]-[55]; *rev'd*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA), [13]: ¶23-26, 28.
- *Steved Machinery & Engineering Ltd. v. Metso Paper Ltd.*, 2014 BCCA 91, [52]-[64]: ¶37-40.

3.2.4 Primary benefit, not incidental collateral benefit

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [53]-[55], [62]: ¶14-16.


4 Corresponding Deprivation of Π

- John D. McCamus, "Moore v Sweet: Four Lessons in Unjust Enrichment from the Supreme Court of Canada" (2020) 98 Can. Bar Rev. 109, 123-128: ¶328-333.

- Matthew P. Harrington, “Leapfrogging, Risk and Unjust Enrichment in Canada after *Moore v. Sweet*” (2020) 96 (2d) S.C.L.R. 191, 196-201: ¶346-351.

4.1 Correspondence: Standing to sue

4.1.1 Correspondence in the nature of benefit and deprivation

- *Moore v. Sweet*, 2018 SCC 52: ¶42-64.
- Optional: Stereo Decisis Podcast, “What Could be Moore Sweet?” ▷29:20-44:56 (Dec 6, 2018), <https://blubrry.com/stereodecisis/> .

4.1.2 Cases of direct subtraction of benefit from plaintiff

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB), [2], [52]-[56]; *rev’d*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA), [13]: ¶17, 25-26, 28.

4.1.3 Cases of interceptive subtraction of benefit

- *Moore v. Sweet*, 2018 SCC 52, [41]-[53], [100]-[113]: ¶47-49, 56-58.

4.1.4 Cases of indirect subtraction (payment through intermediaries)

- *Sun Rype Products Ltd v. Archer Daniels Midland Co.*, 2013 SCC 58: ¶65-73.

4.1.5 Cases of Indirect Benefits

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [34]-[55]: ¶9-15.

4.2 Deprivation: Quantification of restitution

- *Moore v. Sweet*, 2018 SCC 52, [41]-[53], [100]-[113]: ¶47-49, 56-59.
- *Sun Rype Products Ltd v. Archer Daniels Midland Co.*, 2013 SCC 58, [1]-[3], [33]-[38]: ¶66, 71-72.

5 (Absence of) Juristic Reason

- *Garland v. Consumers’ Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629: ¶74-85.
- Mitchell McInnes, *The Canadian Law of Unjust Enrichment and Restitution* (LexisNexis, 2014), 210-216: ¶264-270.
- Lionel Smith, “Demystifying Juristic Reasons” (2007) 45 Can. Bus. L.J. 281, 281-304: ¶352-375.

5.1 Gift (donative intent)

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB), [2], [57]; *rev’d*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA), [14]: ¶17, 26, 28.
- *Pacific National Investments Ltd. v. Victoria City*, 2004 SCC 75: ¶86-97.
- Law and Equity Act, R.S.B.C. 1996, c. 253, s. 59(5): ¶242.

5.2 Contract

5.2.1 Contract never made

- *Stevested Machinery & Engineering Ltd. v. Metso Paper Ltd.*, 2014 BCCA 91, [23], [25], [38]-[46]: ¶33, 35-37.

5.2.2 Contract discharged for breach: services rendered

- *Pacific National Investments Ltd. v. Victoria City*, 2004 SCC 75, [8], [28]-[30]: ¶88, 92-93.

5.2.3 Contract discharged for breach: money paid

- *Kim v. Choi*, 2020 BCCA 98: ¶98-112.

5.2.4 Contract discharged by frustration

- **Frustrated Contract Act, R.S.B.C. 1996, c. 166, ss. 5 and 6: ¶240-241.**

5.2.5 Contract unenforceable; void or voidable; illegal; unconscionable

- *Garland v. Consumers' Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629, [3]-[7], [38]: ¶75, 79.
- *Pacific National Investments Ltd. v. Victoria City*, 2004 SCC 75, [28]-[43]: ¶92-95.
- *Kim v. Choi*, 2020 BCCA 98, [33]-[82]: ¶104-112.
- *Atlantic Lottery Corp. Inc. v. Babstock*, 2020 SCC 19: ¶113-121.

5.3 Disposition of Law (statute)

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [11]-[13]: ¶3-5.
- *Moore v. Sweet*, 2018 SCC 52, [54]-[82], [114]-[138]: ¶49-53, 59-63.
- *Garland v. Consumers' Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629, [49]-[53]: ¶81-82.
- *Pacific National Investments Ltd. v. Victoria City*, 2004 SCC 75, [44]-[47]: ¶95-96.
- *Atlantic Lottery Corp. Inc. v. Babstock*, 2020 SCC 19, [39]-[48]: ¶117-119.
- *Gladstone v. Canada*, 2005 SCC 21: ¶122-126.

5.4 Other Valid Obligation/Purpose

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB); *rev'd*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA), [17]-[18]: ¶29.
- *Pacific National Investments Ltd. v. Victoria City*, 2004 SCC 75, [50]-[52]: ¶96.
- *Kerr v. Baranow*, 2011 SCC 10: ¶127-149.
- **Family Law Act, S.B.C. 2011, c. 25, s.81: ¶243-247.**
- **"Restitution at Home: Unjust Compensation for Unmarried Cohabitants' Domestic Labor" (2020) 133 Harv. L. Rev. 2124, 2124-2128, 2146-2147: ¶407-412.**

6 (Absence of) Residual Reason for Δ's Retention (Δ's burden of proof)

- **Mitchell McInnes, *The Canadian Law of Unjust Enrichment and Restitution* (LexisNexis, 2014), 229: ¶275.**

6.1 Parties' Reasonable Expectations

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [62]-[63]: ¶16.
- *Stevedoring Machinery & Engineering Ltd. v. Metso Paper Ltd.*, 2014 BCCA 91, [38]-[45]: ¶35-36.
- *Garland v. Consumers' Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629, [54]-[56]: ¶82-83.
- *Pacific National Investments Ltd. v. Victoria City*, 2004 SCC 75, [53]-[58]: ¶97.
- *Kerr v. Baranow*, 2011 SCC 10, [117]-[124], [151]: ¶143-145, 147-148.

6.2 Public Policy

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [56]-[65]: ¶15-16.
- *Moore v. Sweet*, 2018 SCC 52, [83]-[88], [139]-[143]: ¶53-54, 63-64.
- *Garland v. Consumers' Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629, [57]-[61]: ¶83-84.

7 Defences

7.1 Change of Position by Δ (Disenrichment) & Estoppel

- *Garland v. Consumers' Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629, [63]-[66]: ¶84-85.
- *RBC Dominion Securities Inc. v. Dawson*, 1994 CanLII 4525, (1994) 111 DLR (4th) 230 (Nfld CA): ¶150-157.
- Charles Mitchell, "Unjust Enrichment" in Andrew Burrows (ed), *English Private Law* (3rd ed., OUP, 2013), 1078-1081: ¶413-416.

7.2 Passing On by Π (Disempoverishment)?

- *Sun Rype Products Ltd v. Archer Daniels Midland Co.*, 2013 SCC 58, [10], [16]-[27]: ¶67-70.
- *Garland v. Consumers' Gas Co.*, 2004 SCC 25, [2004] 1 SCR 629, [63]-[66]: ¶84-85.
- *Pro-Sys Consultants Ltd. v. Microsoft Corp.*, 2013 SCC 57: ¶158-171.
- Charles Mitchell, "Unjust Enrichment" in Andrew Burrows (ed), *English Private Law* (3rd ed., OUP, 2013), 1090-1092: ¶425-427.
- Lionel Smith, "The State of the Law of Unjust Enrichment in Common Law Canada" (2015) 57 Can. Bus. L.J. 39, 51-53: ¶465-467.

7.3 Illegality

- *Kim v. Choi*, 2020 BCCA 98, [33]-[74]: ¶104-110.
- Charles Mitchell, "Unjust Enrichment" in Andrew Burrows (ed), *English Private Law* (3rd ed., OUP, 2013), 1095-1097: ¶430-432.

7.4 Assumption of Risk

- *Stevested Machinery & Engineering Ltd. v. Metso Paper Ltd.*, 2014 BCCA 91, [7]-[18]: ¶31-32.
- *Moore v. Sweet*, 2018 SCC 52, [84], [103], [120]-[127]: ¶53, 57, 59-61.
- Lionel Smith, "Demystifying Juristic Reasons" (2007) 45 Can. Bus. L.J. 281, 291, 297-299: ¶362, 368-370.

7.5 Limitation and Laches

- *Louie v. Lastman*, 2001 CanLII 28066, (2001) 199 D.L.R. (4th) 741 (ON SC); *aff'd*, 2002 CanLII 45061, (2002) 217 D.L.R. (4th) 269 (ON CA): ¶172-179.
- Limitation Act, S.B.C. 2012, c. 13, ss.6-8: ¶248-249.
- Charles Mitchell, "Unjust Enrichment" in Andrew Burrows (ed), *English Private Law* (3rd ed., OUP, 2013), 1092-1095: ¶427-430.
- Samuel Beswick, "Retroactive Adjudication" (2020) 130 Yale L.J. 276, 347-353: ¶437-443.

8 Remedies

8.1 Personal (*in personam*)

- Katy Barnett, "Restitution, Compensation and Disgorgement" in Elise Bant, Kit Barker and Simone Degeling (eds), *Research Handbook on Unjust Enrichment and Restitution* (Edward Elgar Publishing, 2020), 456-464: ¶444-452.

8.1.1 Money

- *Gidney v. Shank*, 1995 CanLII 16455, [1995] 5 WWR 385 (MB QB), [60]-[67]; *rev'd*, 1995 CanLII 16347, [1996] 2 WWR 383 (MB CA): ¶26-27.

- *RBC Dominion Securities Inc. v. Dawson*, 1994 CanLII 4525, (1994) 111 DLR (4th) 230 (Nfld CA), [30]-[43]: ¶155-157.
- *BMP Global Distribution Inc. v. Bank of Nova Scotia*, 2009 SCC 15: ¶180-192.

8.1.2 Accounting

- *Kerr v. Baranow*, 2011 SCC 10, [67]-[69]: ¶137.

8.1.3 Interest

- *Gladstone v. Canada*, 2005 SCC 21, [16]-[22]: ¶124-126.
- *RBC Dominion Securities Inc. v. Dawson*, 1994 CanLII 4525, (1994) 111 DLR (4th) 230 (Nfld CA), [45]: ¶157.

8.1.4 Disgorgement

- *Atlantic Lottery Corp. Inc. v. Babstock*, 2020 SCC 19, [23]-[30]: ¶115-117.

8.2 Proprietary (in rem)

8.2.1 Resulting trust

- *Kerr v. Baranow*, 2011 SCC 10, [24]-[29]: ¶129-130.
- Lionel Smith, “The State of the Law of Unjust Enrichment in Common Law Canada” (2015) 57 Can. Bus. L.J. 39, 53-55: ¶467-469.

8.2.2 Constructive trust

- *Stevedest Machinery & Engineering Ltd. v. Metso Paper Ltd.*, 2014 BCCA 91, [71]-[75]: ¶40-41.
- *Moore v. Sweet*, 2018 SCC 52, [89]-[96], [99]: ¶54-56.
- *Gladstone v. Canada*, 2005 SCC 21, [28]: ¶126.
- *Kerr v. Baranow*, 2011 SCC 10, [50]-[86]: ¶134-140.
- *Pro-Sys Consultants Ltd. v. Microsoft Corp.*, 2013 SCC 57, [90]-[92]: ¶170-171.
- *BNSF Railway v. Teck Metals Ltd.*, 2015 BCSC 1082; *rev’d*, 2016 BCCA 350: ¶193-214.
- John D. McCamus, “*Moore v Sweet*: Four Lessons in Unjust Enrichment from the Supreme Court of Canada” (2020) 98 Can. Bar Rev. 109, 134-139: ¶339-344.
- Bruce H. Ziff *et. al.* (eds), *A Property Law Reader: Cases, Questions and Commentary* (4th ed., Thomson Reuters, 2016), 487-489: ¶472-474.
- Mitchell McInnes, “Interceptive Subtraction, Juristic Reasons and Constructive Trusts: Unjust Enrichment in the Supreme Court of Canada” (2019) 62 Can. Bus. L.J. 277, 301-304: ¶475-478.

8.2.3 Tracing

- *BMP Global Distribution Inc. v. Bank of Nova Scotia*, 2009 SCC 15, [14]-[19], [75]-[88]: ¶183-184, 189-191.
- *BNSF Railway v. Teck Metals Ltd.*, 2015 BCSC 1082; *rev’d*, 2016 BCCA 350, [57]-[64]: ¶205-208.
- Lionel Smith *et. al.* (eds), *The Law of Restitution in Canada: Cases, Notes, and Materials* (Emond Montgomery, 2004), 328-331: ¶479-482.

8.2.4 Rescission

- *Louie v. Lastman*, 2001 CanLII 28066, (2001) 199 D.L.R. (4th) 741 (ON SC), [6], [44]; *aff’d*, 2002 CanLII 45061, (2002) 217 D.L.R. (4th) 269 (ON CA), [13]-[22]: ¶173, 175, 177-178.

9 Restitution in Public Law

- *Peel Municipality v. Canada & Ontario*, 1992 CanLII 21, (1992) 98 DLR (4th) 140 (SCC), [62]-[65]: ¶16.

- *Kingstreet Investments Ltd. v. New Brunswick*, 2007 SCC 1: ¶215-227.
- Crown Proceeding Act, R.S.B.C. 1996, c. 89, s.2: ¶250-251.
- Lionel Smith, “The State of the Law of Unjust Enrichment in Common Law Canada” (2015) 57 Can. Bus. L.J. 39, 46-47: ¶460-461.
- Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution* (3rd ed., MacMillan & Co., London, 1889): ¶483-486.

10 Separate “Unjust Factors” Frameworks in Canada?

- *BMP Global Distribution Inc. v. Bank of Nova Scotia*, 2009 SCC 15, [10]-[25]: ¶182-186.
- *BNSF Railway v. Teck Metals Ltd.*, 2015 BCSC 1082; *rev’d*, 2016 BCCA 350, [31]-[34], [83]: ¶199-200, 213-214.
- *International Longshore & Warehouse Union Local 502 v. Ford*, 2016 BCCA 226: ¶228-239.
- Lionel Smith, “The State of the Law of Unjust Enrichment in Common Law Canada” (2015) 57 Can. Bus. L.J. 39, 43-57: ¶457-471.
- Lionel Smith & Samuel Beswick, “Unjust Enrichment: Principle or Cause of Action?” in CLEBC (ed), *British Columbia Business Disputes* (2021), 1.1.6-1.1.15: ¶487-495.

11 Debates and Controversies

- Graham Virgo, “‘All the World’s a Stage’: The Seven Ages of Unjust Enrichment” (Sep. 2016): ¶496-507.
- Steve Hedley, “‘And So the Legal World Goes Round’: The Search for a Meaningful Law of Restitution” (Oct. 2016): ¶508-515.
- The Rethinking Unjust Enrichment Project, *The Four Perspectives* (2022): ¶516-518.
- Lionel Smith, “Restitution: A New Start?” in Peter Devonshire & Rohan Havelock (eds), *The Impact of Equity and Restitution in Commerce* (Hart, 2018), 91-117 (OPTIONAL): ¶300-328.

12 Exam Review

- Samuel Beswick, *LAW 436: Restitution – Unjust Enrichment Exam* (April 2021): ¶519-522.

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