

**LAWS 2013: Judicial Remedies (3 credits)**  
**Schulich School of Law**  
**Winter 2017/2018**

**A. General Information:**

**Instructor:** James P. Barry  
**Office No.:** L114D (in the basement of the law library)  
**Office Hours:** Please email to set up an appointment.  
**Email:** jpbarry@dal.ca

**Course Times:** Tuesdays and Thursdays, 11:05-12:25 pm.  
**Course Location:** Room 207, Weldon Law Building

**B. Course Description**

The objective of the course is to give students an understanding of the basic principles of the law applicable to private law remedies and how they are applied by the courts in their efforts to provide appropriate remedies in the wide variety of factual circumstances that give rise to claims. The course method will use case analysis supplemented with comments by the professor.

**C. Course Materials**

The course textbook is Jeffrey Berryman, et al., *Remedies: Cases and Materials* (7<sup>th</sup> edition, 2016), available in the university bookstore. As you can see from the course schedule in section G below, I will occasionally rely on cases not in the textbook. I will post these and any handouts we will be using on Brightspace at least one week before we cover them in class.

**D. Evaluation**

Evaluation will be by way of a three hour final exam to be written at 9:30 am on Wednesday, April 25, 2018. The exam will be partially open book. You may use only the course text book and your personal notes. No secondary sources (other text books, articles, etc.) may be used.

**E. Student Requests for Accommodation**

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean Michael Deturbide or the Director of Student Services as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require medical documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their

request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit [www.dal.ca/access](http://www.dal.ca/access) for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at 494-2836.

## F. Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

## G. Class Schedule

Note that the readings for each class may be adjusted as we go along depending on our progress.

### Part 1: Damages: General Principles

Tuesday, January 9	Introductory class (no readings)
Thursday, January 11	The Compensatory Principle, pp. 3-4. Remoteness: pp. 9-14. Causation, Part 1: pp: 14-19 and 29 to 32.
Tuesday, January 16	Causation, Part 2: <i>Clements v. Clements</i> , 2012 SCC 32. Mitigation, Part 1: pp. 39-53.
Thursday, January 18	Mitigation, Part 2: pp. 55-64 <i>Southcott Estates v. Toronto Catholic School Board</i> , 2012 SCC 51
Tuesday, January 23	Collateral Benefits: pp. 68-81. Time of Assessment, Part 1: pp. 99-122
Thursday, January 25	Time of Assessment, Part 2: pp. 127 ( <i>Courts of Justice Act</i> ) 143-151 (to the end of <i>Johnson</i> ), 152-158 Cost of Performance v. Diminution in Value: pp. 155-66, 169-77.
Tuesday January 30	Efficient Breach, pp. 158-173, 176-185.
Tuesday, February 6	Punitive Awards: pp. 194-207 (to the end of note 4). <i>Branco v. American Home Assurance</i> , 2013 SKQB 98.

Thursday, February 8                      Benefit to the Defendant, pp. 239-279

## **Part 2: Damages: Special Issues**

Tuesday, February 13                      Contract: Expectation Measure, pp. 273-288 and 284-93.  
Discretionary Benefits: pp. 313-17.

Thursday, February 15                      Cost of Performance v. Diminution in Value, pp. 305-313.  
Non-Pecuniary Loss in Contract, pp. 317-330.

## **Study Break**

Tuesday, February 27                      Reliance Measure in Contract, pp. 330-343

Thursday, March 1                          Tortiously Inducing a Losing Contract, pp. 345-361

Tuesday, March 6                          Property, pp. 387-408, 413-424

Tuesday, March 8                          Personal Injury, Part 1: pp. 465-484, 524-534.

Tuesday, March 13                         Personal Injury, Part 2: pp. 534-537.  
Death: pp. 538-562.

Tuesday, March 15                         Gender and Injury or Death, pp. 500-523.

## **Part 3: Equitable Remedies**

Tuesday, March 20                         Injunctions, Part 1: pp. 565-595.

Thursday, March 22                         Injunctions, Part 2: pp. 599-610, 620-642.

Tuesday, March 27                         Injunctions, Part 3: pp. 721-727,  
746-761, 779-790.

Thursday, March 29                         Specific Performance, Part 1: pp. 889-893  
906-912, 932-943

Tuesday, April 3                             Specific Performance, Part 2: pp. 949-956  
966-69, 983-992.

Thursday, April 5                            Discretionary Denial: pp. 1094-1103, 1110-1112, 1123-1124  
Private Stipulation of Remedies: 1165-1167.

Tuesday, April 10                          Review