

Restitution And Equity Volume 1 Resulting Trusts And Equitable Compensation V 1

Thomas on Powers Geraint Thomas 2012-03-08 Highly regarded, and cited in a number of judgments, Thomas on Powers is concerned with the general principles and doctrines governing or affecting the creation, exercise, and operation of powers in private law, and provides a discursive, intellectual analysis of the principles underlying the problems commonly encountered by practitioners. The first edition of Thomas on Powers was published in 1998 as part of Sweet & Maxwell's Property and Conveyancing Library. This new edition both updates the original work and expands the scope of the book significantly to include coverage of offshore trusts and current trusts issues such as fiduciary powers, protectors, and "shams". Thomas on Powers provides extensive coverage of recent statutes dealing with trustee delegation; developments to the law relating to pension schemes; and cases relating to the rule in Hastings-Bass, which has had a series of contentious recent decisions. This edition includes expanded discussion of case law from Commonwealth countries and focuses more on the numerous judgments from offshore jurisdictions, some of which raise novel questions and issues. The book also includes an increased emphasis on the specific legislation of offshore trusts, where practical problems centred around the creation and exercise of trustee powers have become very important. This edition covers the problematic interaction of powers of revocation and sham trusts; the scope and effects of powers of amendment; the powers and role of protectors of offshore trusts; and the powers of directors of companies; and the relationship between fiduciary powers in private law and powers exercised by public bodies.

Justifying Private Law Remedies C.E.F. Rickett 2008-06-26 In August 2006 the third Australian Obligations Conference was hosted in Brisbane by the TC Beirne School of Law. The theme of the Conference was "Justifying Private Law Remedies". This book contains a number of the papers delivered at that Conference, presented under several categories but all dealing with the fundamental issue of justification: General Concepts; Performance; Compensation; Punishment; and Restitution and Disgorgement. The authors are largely drawn from the legal academy, and include Canadian, Australian, British and New Zealand scholars. The collection will be of interest to all those concerned with the role, nature and place of remedies in the private law of the common law world.

The New Zealand Law Reports 1915 Vols. for 1933-1936 include "The Law journal supplement to the New Zealand law reports."

Gain-Based Damages James Edelman 2002-04-19 On July 27,2000 the House of Lords delivered a decision where, for the first time in English law, it explicitly recognised that damages for civil wrongs can be assessed by reference to a defendant (wrongdoer)'s gain rather than a claimant's loss. The circumstances in which such gain-based damages might be available were left for development incrementally. This book considers the nature of gain-based damages and explains when they have historically been available and why, and provides a framework for appreciating the operation of such damages awards. The first part of the book justifies the existence of these damages, which focus upon a defendant wrongdoer's gain made as a result of a civil wrong, explaining the nature and need for such a remedy and the scope of civil wrongs. The core thesis of the book is that two different forms of such gain-based damages exist: the first is concerned with restitution of a defendant's gains wrongfully transferred from a claimant; the second is concerned only with stripping profits from the defendant's hands. Once these two gain-based damages awards are separated they can be shown to be based upon different rationales and the basis for their availability can be easily understood. The second part of the book considers and applies this approach, demonstrating its operation throughout the cases of civil wrongs. The operation of the two forms of gain-based damages is demonstrated in cases in the area of tort (chapter 4), contract (chapter 5), equitable wrongs (chapter 6) and intellectual property wrongs (chapter 7). It is shown that these gain-based damages awards have long been available in these areas and their operation has conformed to clear principle. The difficulty that has obscured the principle is the nomenclature which has hidden the true gain-based nature of many of these damages awards.

Breach of Trust Peter Birks 2002-07-05 Recent leading cases have demonstrated the urgent need to modernize the learning on breach of trust, which has lagged behind the flourishing scholarship on the creation of trusts. Since breach of trust or fiduciary duty occupies the centre of the legal stage, it comes as a surprise that, although one or two novelists have chosen 'Breach of Trust' as the title to their book, no lawyer has so far thought it necessary to produce a specialized work on the subject. To fill the gap, this book, written by a team of leading trust lawyers from a number of common law jurisdictions, investigates all the principal aspects of the subject. The nature of the trustee's duties and of the liability for breach is closely examined, and all available defences and excuses are reviewed. Two substantial chapters consider the consequences of assisting a breach or receiving trust property from a trustee acting in breach. The book closes with a critical overview of the entire topic. CONTENTS: 1 Robert Chambers 'Liability for Breach'; 2 Joshua Getzler 'The Duty of Care'; 3 Edwin Simpson 'The Conflict of Interest'; 4 David Fox 'Overreaching'; 5 Lionel Smith 'Property Transferred in Breach'; 6 Charles Mitchell 'Assistance'; 7 Peter Birks 'Receipt'; 8 James Penner 'Exemption clauses'; 9 John Lowry and Rod Edmunds 'Honest and Reasonable Breach' ; 10 Jennifer Payne 'Consent'; 11 William Swadling 'Limitation'; 12 Gary Watt 'Laches, Estoppel and Election'; 13 David Hayton 'An Overview'.

Modern Studies in Property Law - Volume 3 Elizabeth Cooke 2005-06-29 This volume contains the proceedings from the 2002 conference of the Centre for Property Law at the University of Reading, and includes a wide range of papers from both English and international speakers, covering many of the most topical issues within the law of property.

The Law of Contract Janet O'Sullivan 2016 The Core Text Series takes the reader straight to the heart of the subject, providing an invaluable and reliable guide for students of law at all levels. Written by leading academics and renowned for their clarity, these concise texts explain the intellectual challenges of each area of the law. The Law of Contract provides students with a clear, straightforward, and comprehensive account of the core principles of contract law to enable a sound understanding of the subject. Written by Janet O'Sullivan, Fellow of Selwyn College, Cambridge, and Jonathan Hilliard, barrister at Wilberforce Chambers, this text covers all the key topics on LLB and GDL courses and introduces students to current debates in the field. The authors break down complex problems into manageable steps and self-test questions are provided at the end of each chapter to help reinforce learning and aid revision. Students can find answer guidance to these questions as well as additional support for their studies, including author videos discussing key cases, additional chapters, updates and web links on the accompanying Online Resource Centre.

Equity & Trusts Alastair Hudson 2014-05-27 This new edition considers all of the academic commentary governing the area of equity and trusts - in particular the emerging law of restitution and the raft of new case law over the 1990s. It is suitable both as a scholarly reference and as a resource for students.

Restitution: Past, Present and Future William Cornish 1998-07-01 The essays in this volume are dedicated to Gareth Jones, the retiring Downing Professor of English Law at the University of Cambridge. His contribution to legal scholarship has been immense, particularly in the fields of legal history, the law of trusts, charities law and, most famously, the law of restitution. The publication of the first edition of the Law of Restitution, which he co-authored with Lord Goff, stimulated a renaissance in the study of a subject which had previously lain dormant. The effect of its publication on English legal scholarship has been profound and enduring. In these essays, written by a group of the world's leading restitution scholars, the opportunity is taken to conduct a fresh appraisal of the development of the subject - to look, in other words, at the past, present, and future of the law of restitution. Contributors: John Baker, Peter Birks, Justice Finn, Roy Goode, Ewan McKendrick, Justice McLachlin, Sir Peter Millett, Lord Nicholls of Birkenhead, Richard Nolan, Janet O'Sullivan, Graham Virgo (as well as shorter contributions from invited commentators).

Measuring Damages in the Law of Obligations Sirko Harder 2010-07-12 This book challenges certain differences between contract, tort and equity in relation to the measure (in a broad sense) of damages. Damages are defined as the monetary award made by a court in consequence of a breach of contract, a tort or an equitable wrong. In all these causes of action, damages usually aim to put the claimant into the position the

claimant would be in without the wrong. Even though the main objective of damages is thus the same for each cause of action, their measure is not. While some aspects of the measure of damages are more or less harmonised between contract, tort and equity (e.g. causation in fact and mitigation), significant differences exist in relation to (1) remoteness of damage, which is the question of whether, when and to which degree damage needs to be foreseeable to be recoverable; (2) the compensability of non-pecuniary loss such as pain and suffering, distress and loss of reputation; (3) the effect of contributory negligence, which is the victim's contribution to the occurrence of the wrong or the ensuing loss through unreasonable conduct prior to the wrong; (4) the circumstances under which victims of wrongs can claim the gain the wrongdoer has made from the wrong; and (5) the availability and scope of exemplary (or punitive) damages. For each of the five topics, this book examines the present position in contract, tort and equity and establishes the differences between the three areas. It goes on to scrutinise the arguments in defence of existing differences. The conclusion on each topic is that the present differences between contract, tort and equity cannot be justified on merits and should be removed through a harmonisation of the relevant principles.

Equity and Trusts in Australia Michael Bryan 2017-09 Equity and Trusts in Australia, second edition provides undergraduate and Juris Doctor students with an accessible introduction to equity and trust law.

The Fusion of Law and Equity Paul M. Perell 1990

Equitable Compensation and Disgorgement of Profit Simone Degeling 2017-04-06 This collection of essays interrogates significant issues at the forefront of scholarship and legal practice in the field of money remedies in equity. Chapters address the contentious and developing field of equitable compensation, including: the nature of equitable compensation; the relevant causation inquiry for equitable compensation; whether notions of contribution apply to multiple agents; accessorial liability; the role of discretion in limiting equitable compensation; which wrongs yield equitable compensation; and the extent to which compensation in equity differs from money remedies at common law. Other chapters examine the remedy of disgorgement of profit, and specifically the theoretical basis of that remedy, its application in the context of fiduciary obligations, and third-party issues. A number of chapters also examine the interrelationship between loss- and gain-based money relief. In addressing these issues the book includes both doctrinal and theoretical perspectives, and brings together leading equity scholars and judges from across the common law world.

Landmark Cases in the Law of Restitution C Mitchell 2006-04-18 It is now well established that the law of unjust enrichment forms an important and distinctive part of the English law of obligations. Restitutionary awards for unjust enrichment and for wrongdoing are clearly recognised for what they are. But these are recent developments. Before the last decade of the twentieth century the very existence of a separate law of unjust enrichment was controversial, its scope and content matters of dispute. In this collection of essays, a group of leading scholars look back and reappraise some of the landmark cases in the law of restitution. They range from the early seventeenth century to the mid-twentieth century, and shed new light on some classic decisions. Some argue that the importance of their case has been overstated; others, that it has been overlooked, or misconceived. All persuasively invite the reader to think again about some well-known authorities. The book is an essential resource for anyone, scholar, student or practitioner, with an interest in this fascinating area of the law.

An Introduction to the Law of Trusts Simon Gardner 2011-05-05 This text provides a concise and analytical overview of the English law of trusts, drawing out especially this area's underlying concerns and suggesting ways in which the rules can be explained and evaluated.

Structure and Justification in Private Law C.E.F. Rickett 2008-02-27 Peter Birks's tragically early death, and his immense influence around the world, led immediately to the call for a volume of essays in his honour by scholars who had known him as a colleague, teacher and friend. One such volume, published in 2006, contained essays largely from scholars working in England (*Mapping the Law: Essays in Memory of Peter Birks*, edited by Andrew Burrows and Lord Rodger). This volume contains the essays of those outside England who chose to honour Peter, and appears later than the English volume, reflecting the far flung habitations of its authors. The essays contained in this volume are focussed around the law of unjust enrichment, but are not narrowly preoccupied - instead they move freely from unjust enrichment to some of the most profound questions in private law concerning taxonomy, the relationship between contract, property and unjust enrichment, and the place of remedies within private law. This volume, featuring the work of some of the world's great private lawyers, provides a fitting tribute to a great scholar, and a series of thought-provoking essays inspired by his example. Contributors Kit Barker Michael Bryan Peter Butler Hanoch Dagan Simone Degeling Daniel Friedmann Mark Gergen Ross Grantham Steve Hedley John McCamus Mitchell McInnes Eoin O'Dell Charles Rickett Struan Scott Emily Sherwin Stephen Smith Richard Sutton Michael Tilbury Stephen Waddams Peter Watts Ernest Weinrib Eric Descheemaeker

The Principles of Equity & Trusts Graham Virgo 2018 'The Principles of Equity and Trusts' brings an engaging contextual approach to the subject. Graham Virgo overcomes the complex issues in the study of trusts and equity with unparalleled clarity, offering a rigorous and insightful commentary on the law and its contemporary contexts.

Trusts and Modern Wealth Management Richard C. Nolan 2018-05-31 New essays by leading figures from the judiciary, practicing lawyers and academics illuminating the worlds of trusts and wealth management.

Equity & Trusts Paul S. Davies 2016 "This book has emerged ... from Maudsley and Burn's trusts and trustees: cases and materials, the seventh edition of which was published in 2008"--Preface.

Equity and Trusts Paul S. Davies 2019-05-30 Equity & Trusts: Text, Cases, and Materials provides a comprehensive guide to trusts and equity in a single volume. Drawing on a judiciously balanced selection of case extracts, journal articles, and academic writing, Davies and Virgo present their authoritative commentary on the law with clarity and rigour. The text guides students through the key legal principles of each case, utilizing supporting learning features to highlight important aspects and help develop students' independent research skills. Central Issues boxes introduce each chapter to identify the key themes examined and scenario-based questions frame the law in a practical context, encouraging students to think creatively around the subject and assess their own understanding. This text offers a holistic approach to the study of equity and trusts. Using their unrivalled teaching experience, the authors bring together an expertly selected collection of cases and legal scholarship to present a text that is firmly student-focused, enabling students to fully grasp the key concepts and achieve the best possible results. Online Resources Supporting answer guidance to the end of chapter questions is offered online.

The Hague Trusts Convention Jonathan Harris 2002-05-04 Trusts cross borders. When they do, real difficulties may arise. Will the understanding of what a trust is be different in a foreign state? Will the rights, powers and duties of the trustee and settlor be the same? What rights will the beneficiary be able to assert? To what extent will the trust assets be safe from the claims of creditors, forced heirs, or third parties? Which legal system will be applied to the trust? Within what limits? What if the trust needs to be recognised in a state which does not have the institution of the trust in its domestic law? The Hague Trusts Convention, enacted into English law by the Recognition of Trusts Act 1987, seeks to ameliorate the situation by providing harmonised choice of law rules for "trusts created voluntarily and evidenced in writing." It also provides for the recognition of trusts in Contracting States. Those Contracting States should recognise the trust, even if they do not have the institution in their domestic law. This book is the first published in England to devote itself to a detailed analysis of the Convention. It is aimed at academics and practitioners; at private international lawyers and at trust lawyers. Frequent reference is made to the position in civil law states (especially in the Contracting States of Italy and the Netherlands) and in other trust states, both offshore and onshore. The Hague Trusts Convention deals with the operation of the trust itself. It does not deal with the preliminary steps needed to create a trust. These preliminary matters raise highly complex and uncharted choice of law issues. Detailed discussion of these matters is also provided, and appropriate solutions suggested.

Restitution and Equity Volume 1: Resulting Trusts and Equitable Compensation Peter Birks 2020-11-25 The first part of this volume collates papers from the Second Mansfield Symposium, which examined the areas of equity, trusts and restitution. The second part addresses the emerging field of equitable compensation and its implications.

The Principles of Personal Property Law Duncan Sheehan 2011-11-30 The law of personal property covers a very wide spectrum of scenarios and has had little detailed scrutiny of its overarching structure over the years. This is a shame. It is a system and can best be understood as a system. Indeed without understanding it as a system, it becomes much more difficult to understand. This new textbook is intended to provide a comprehensive and yet detailed coverage of the law of personal property in England and Wales. It includes transfer of legal title to chattels, the nemo dat rule, negotiable instruments and assignment of choses in action. It also looks at defective transfers of property and the resulting proprietary claims, including those contingent on tracing, the tort of conversion, bailment and security interests. By bringing together areas often scattered throughout company law, commercial law, trusts and tort textbooks, it enables readers to see common themes and issues and to make otherwise impossible generalisations across different contexts about the nature of the concepts English law applies. Throughout the book, concepts are explained rigorously, with reference to how they are used in commercial practice and everyday life. The book will be of use to students on undergraduate commercial law courses, or related LLM courses, as well as those on integrated property law courses, and particularly specialised personal property modules. It will also be useful to academics and practitioners working in the area.

Constructive and Resulting Trusts C Mitchell 2010-03-03 Constructive and resulting trusts have a long history in English law, and the law which governs them continues to develop as they are pressed into service to perform a wide variety of different functions, for example, to support the working of express trusts and other fiduciary relationships, to allocate family property rights, and to undo the consequences of commercial fraud. However, while their conceptual flexibility makes them enormously useful, it also makes them hard to understand. In the twelve essays collected in this volume, the authors shed new light on various aspects of the law governing constructive and resulting trusts, revisiting current controversies, bringing new historical material to the fore, and offering new theoretical perspectives.

Fault Lines in Equity James Glister 2012-05-18 Equity, the body of law developed in the English Court of Chancery, has a long and distinguished history. In the twenty-first century it continues to be an important regulator of both commercial and personal dealings, as well as informing statutory regulation. Although much equitable doctrine is settled, there remain some intractable problems that bedevil lawyers across jurisdictions. The essays in this collection employ new historical, comparative and theoretical perspectives to cast light on these fault lines in equitable doctrine and methodology. Leading scholars and practitioners from England, Australia and New Zealand examine such contentious topics as personal and proprietary liability for breaches of equitable duties (including fiduciary duties), the creation of non-express trusts, equitable rights in insolvency, the fiduciary 'self dealing' rule, clogs on the equity of redemption, the distribution of assets on family breakdown, and the suitability of unjust enrichment analysis. The authors address specific doctrinal questions as well as the 'meta' issues of organisation and methodology, and their findings will be of value to academics and practitioners alike.

Trusts Law Graham Moffat 2005-09-29 With its unique contextual emphasis and authoritative commentary, *Trusts Law: Text and Materials* is a book that no serious undergraduate on trust law courses can afford to be without. The book is divided into four main parts: trusts and the preservation of family wealth; trusts and family breakdown; trusts and commerce; and trusts and non-profit activity. Within each of these parts, leading cases, statutes, and historical and research materials are placed alongside the narrative of the author's text to give emphasis both to general theories of trust concepts and to the practical operation of trusts. Attention is also given to important themes such as the developing relationship between trusts law and other areas of private law such as the Law of Restitution. This new edition takes account of all relevant judicial and legislative developments since the third edition, and expands discussion of key themes in current developments of the law.

Enrichment in the Law of Unjust Enrichment and Restitution Andrew Lodder 2012-07-06 Enrichment is key to understanding the law of unjust enrichment and restitution. This book provides a comprehensive analysis of the concept of enrichment and its implications for restitutionary awards. Dr Lodder argues that enrichment may be characterised either factually or legally, and explores the consequences of that distinction. In factual enrichment cases, the measure of enrichment is the objective value received. This is the basis of many awards of money had and received, quantum meruit, quantum valebat and money paid. In legal enrichment cases, the benefit is the acquisition of a specific right or the release of a specific obligation. The remedy is restitution of that right or reinstatement of that obligation. It is demonstrated that specific restitution of the defendant's legal enrichment is often the basis for resulting trusts, rescission, rectification and subrogation. This book has profound implications for understanding restitutionary awards and the relationship between the enrichment inquiry and other aspects of the law of unjust enrichment, including the 'at the expense of' inquiry and the defence of change of position.

Remedies in Australian Private Law Katy Barnett 2018-08-31 The second edition of *Remedies in Australian Private Law* offers readers a clear and detailed introduction to remedies and their functions under Australian law. Clearly structured, with a strong black-letter law focus, the text provides a complete treatment of remedies in common law, equity and statute and develops a framework for understanding the principles of private law remedies and their practical application. This edition has been significantly revised and offers up-to-date coverage of case law and legislation, including the Australian Consumer Law. Building on the detailed treatment of remedies and their broad functions across a range of private law categories, the new edition also offers expanded coverage of vindictory damages, debt, specific restitution and coercive remedies. With its systematic and accessible approach, this text enables students and practitioners to develop a coherent understanding of remedial law, and to analyse legal problems and identify appropriate remedial solutions.

The Change of Position Defence Elise Bant 2009-05-27 This book defines and explains the operation of the defence of change of position in Anglo-Australian law. It is a widely accepted view that the defence is a modern development, the first express recognition of which can be traced in England to the seminal decision of the House of Lords in *Lipkin Gorman (a firm) v Karpnale Ltd*. Commentators have accordingly tended to focus on post-Lipkin case law in discussing the defence and its many disputed features. This work takes a different stance, arguing that the defence is best understood by placing it within its broader historical and legal context. It explains that the foundations of the defence can be found in the related doctrines of estoppel by representation, the agent's defence of payment over and the law of rescission. The analysis applies crucial insights from those areas, together with the change of position authorities and broader considerations of policy and principle, to develop a rigorous model of the change of position defence. The work not only provides a clear and exhaustive examination of the defence, but demonstrates that, properly understood, the defence operates in a rational and justifiable manner within its broader private law context. In so doing, its analysis meets the oft-expressed concern that the defence may operate in an unprincipled way or by reference to 'that vague jurisprudence which is sometimes attractively styled "justice as between man and man"'.

Trusts Law Charlie Webb 2017-05-09 This textbook is a comprehensive and accessible guide to Trusts Law and has been thoroughly updated to reflect recent developments in the area. The authors bring a unique combination of academic rigour and hands-on commercial experience to the explanation of their subject and it is these practical insights which make the book essential reading for all law students. Many law students struggle with the concept of Trusts Law and it can take time to properly understand the complex body of rules that surround it. This book will help demystify some of these rules and put Trusts Law into a practical context, allowing students the time to develop a deep and critical understanding of the topic. This book is an ideal companion for both law undergraduate and GDL/CPE students. New to this Edition: - A new chapter on creating a trust

Fiduciary Loyalty Matthew Conaglen 2010-01-08 Winner of the second SLS Peter Birks Prize for Outstanding Legal Scholarship 2010. *Fiduciary Loyalty* presents a comprehensive analysis of the nature and function of fiduciary duties. The concept of loyalty, which lies at the heart of fiduciary doctrine, is a form of protection which is designed to enhance the likelihood of due performance of non-fiduciary duties, by seeking to avoid influences or temptations that may distract the fiduciary from providing such proper performance. In developing this position, the book takes the novel approach of putting to one side the difficult question of when fiduciary duties arise in order to focus attention instead on what fiduciary duties do when they are owed. The issue of when fiduciary duties arise can then be returned to, and considered more profitably, once a clear view has emerged of the function that such duties perform. The analysis advanced in the book has both practical and theoretical implications for understanding fiduciary doctrine. For example, it provides a sound

conceptual footing for understanding the relationship between fiduciary and non-fiduciary duties, highlighting the practical importance of analysing both forms of duties carefully when considering fiduciary claims. Further, it explains a number of tenets within fiduciary doctrine, such as the proscriptive nature of fiduciary duties and the need to obtain the principal's fully informed consent in order to avoid fiduciary liability. Understanding the relationship between fiduciary and non-fiduciary duties also provides a solid foundation for addressing issues concerning compensatory remedies for their breach and potential defences such as contributory fault. The distinctive purpose that fiduciary duties serve also provides a firm theoretical basis for maintaining their separation from other forms of civil obligation, such as those that arise under the law of contracts and of torts.

Equity and Trusts in Australia Gino Evan Dal Pont 2018 Prologue - Nature of Equity PART I: EQUITABLE INTERESTS Chapter 1: Nature and Creation of Equitable Interests Chapter 2: Equitable Priorities Chapter 3: Assignments in Equity PART II: RELATIONSHIPS OF TRUST Chapter 4: Fiduciary Relations Chapter 5: Government and the Public Trust Chapter 6: Confidential Information Chapter 7: Undue Influence PART III: UNCONSCIONABLE CONDUCT Chapter 8: Fraud and Mistake Chapter 9: Unconscionable Dealing Chapter 10: Estoppel Chapter 11: Relief Against Forfeiture PART IV: UNFAIR OUTCOMES Chapter 12: Part Performance Chapter 13: Penalty Clauses Chapter 14: Subrogation, Contribution and Marshalling Chapter 15: Deceased Estates PART V: TRUSTS Chapter 16: Nature of A Trust Chapter 17: The Requisite Certainties Chapter 18: Formalities and Complete Constitution Chapter 19: Legality of Trusts Chapter 20: Beneficiaries Chapter 21: Trustees Chapter 22: Duties of Trustees Chapter 23: Powers and Rights of Trustees Chapter 24: Breach of Trust Chapter 25: Variation, Resettlement and Termination of Trusts Chapter 26: Resulting Trusts Chapter 27: Trusts for Commercial Purposes Chapter 28: Trusts for Investment Chapter 29: Charitable Trusts PART VI: Equitable Defences Chapter 30: Equitable Defences PART VII: EQUITABLE REMEDIES Chapter 31: Injunctions Chapter 32: Mareva and Anton Piller Orders Chapter 33: Specific Performance Chapter 34: Compensation, Damages and Account of Profits Chapter 35: Rescission Chapter 36: Receivership Chapter 37: Declarations, Rectification, Specific Restitution and Delivery up Chapter 38: Constructive Trusts Chapter 39: Tracing.

Model Rules of Professional Conduct American Bar Association. House of Delegates 2007 The Model Rules of Professional Conduct provides an up-to-date resource for information on legal ethics. Federal, state and local courts in all jurisdictions look to the Rules for guidance in solving lawyer malpractice cases, disciplinary actions, disqualification issues, sanctions questions and much more. In this volume, black-letter Rules of Professional Conduct are followed by numbered Comments that explain each Rule's purpose and provide suggestions for its practical application. The Rules will help you identify proper conduct in a variety of given situations, review those instances where discretionary action is possible, and define the nature of the relationship between you and your clients, colleagues and the courts.

Accessory Liability Paul S Davies 2015-02-26 Accessory liability in the private law is of great importance. Claimants often bring claims against third parties who participate in wrongs. For example, the 'direct wrongdoer' may be insolvent, so a claimant might prefer a remedy against an accessory in order to obtain satisfactory redress. However, the law in this area has not received the attention it deserves. The criminal law recognises that any person who 'aids, abets, counsels or procures' any offence can be punished as an accessory, but the private law is more fragmented. One reason for this is a tendency to compartmentalise the law of obligations into discrete subjects, such as contract, trusts, tort and intellectual property. This book suggests that by looking across such boundaries in the private law, the nature and principles of accessory liability can be better understood and doctrinal confusion regarding the elements of liability, defences and remedies resolved. Winner of the Joint Second SLS Peter Birks Prize for Outstanding Legal Scholarship 2015.

The Assignment of Contractual Rights Gregory J. Tolhurst 2016-06-16 This book explains the existence, meaning and application of the rules governing the assignment of contractual rights. The second edition is updated and retains the structure of the first edition, focusing on what is meant by 'assignment', the distinction between legal and equitable assignments, how an assignable contractual right is identified, what formalities apply to assignment, and what rights and remedies are available to the parties to an assignment. In reviewing the first edition, The Hon JD Heydon said 'it is essential reading for ... teachers, especially those who teach contract, equity and personal property. Above all, it should always be consulted-read carefully, slowly and repeatedly-by any practitioner facing an assignment problem. ... It is not only the best book ever written on its subject, but among the best monographs dealing with legal doctrine published in recent years' (2008) 30 Sydney Law Review 169.

Equity and Trusts in Australia Michael Bryan 2012-07-17 The book provides a succinct, clear and accessible explanation of key theories and terminology in equitable and trust law and demonstrates how these are applied in practice with simple, topical examples. Bryan from University Melbourne, Vann from Monash.

O'Sullivan and Hilliard's the Law of Contract Janet O'Sullivan 2018 'The Law of Contract' is the perfect student companion, providing a concise, clear overview of the fundamental principles of contract law and breaking down complex areas. An ideal guide, taking students straight to the core of this key subject.

The Principles of Equity and Trusts Graham Virgo 2012-05-03 The Principle of Equity and Trusts offers students a new approach to this dynamic area of law. Professor Graham Virgo has created a rigorous yet accessible student companion which draws the field in its contemporary context, offering a critical and insightful commentary on the law, its application, and development. The text communicates the dynamic and thought provoking nature of this area of law and reflect the modern understanding of the subjects, as propounded both by the judiciary and commentators. The text offers a student focused approach providing a clearly written and accessible guide to this most fascinating area of law while equally providing the critical rigour and referencing expected from academics in the field. The Principle of Equity and Trusts promises to be a new classic in the field of equity and trusts textbook; one which is admired by lecturers and students alike.

The Humanity of Private Law Nicholas McBride 2018-12-27 The Humanity of Private Law presents a new way of thinking about English private law. Making a decisive break from earlier views of private law, which saw private law as concerned with wealth-maximisation or preserving relationships of mutual independence between its subjects, the author argues that English private law's core concern is the flourishing of its subjects. THIS VOLUME - presents a critique of alternative explanations of private law; - defines and sets out the key building blocks of private law; - sets out the vision of human flourishing (the RP) that English private law has in mind in seeking to promote its subjects' flourishing; - shows how various features of English private law are fine-tuned to ensure that its subjects enjoy a flourishing existence, according to the vision of human flourishing provided by the RP; - explains how other features of English private law are designed to preserve private law's legitimacy while it pursues its core concern of promoting human flourishing; - defends the view of English private law presented here against arguments that it does not adequately fit the rules and doctrines of private law, or that it is implausible to think that English private law is concerned with promoting human flourishing. A follow-up volume will question whether the RP is correct as an account of what human flourishing involves, and consider what private law would look like if it sought to give effect to a more authentic vision of human flourishing. The Humanity of Private Law is essential reading for students, academics and judges who are interested in understanding private law in common law jurisdictions, and for anyone interested in the nature and significance of human flourishing.

Asia-Pacific Trusts Law, Volume 2 Ying Khai Liew 2022-12-15 This book brings together leading legal scholars and practitioners from across the Asia-Pacific region to probe the ways in which trusts law has been adapted by various jurisdictions, and to analyse their causes and effects. The contributions discuss how the trust structure, with its inherent malleability, has been adapted to meet a diverse set of local needs, including social, religious, economic, commercial, or even historical needs. But in most instances, those needs - and the ways in which trusts law has been adapted to meet them - are not unique to a single jurisdiction: they often (coincidentally or otherwise) find much in common with others. By making its readers aware of the commonality of needs in Asia-Pacific, this book also aims to encourage coordination and cooperation in utilising trusts law to address shared concerns across the region.

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