

## LAW 310

### RESTITUTION

<b>Prerequisites/Co-requisites:</b>	None
<b>Unit Value:</b>	1.5
<b>Hours per Week:</b>	3
<b>Term Offered:</b>	Fall
<b>Instructor:</b>	P.D. Maddaugh

#### **Educational Goals and Objectives:**

To acquaint the student with the existence and utility of the body of doctrine based upon the principle of preventing an “unjust enrichment” that stands as an independent discipline along side contract and tort as part of the general law of obligations. The course will focus upon the four major grounds upon which a right to restitutionary relief arises: benefits conferred by mistake; benefits conferred in the course of an ineffective transaction; benefits conferred as a result of wrongdoing; and benefits conferred in a non-officious context. The course will also examine the various restitutionary remedies – both at common law and in equity – that are available to redress an unjust enrichment. Endeavour will be made to illustrate the breadth and scope of the subject and, in particular, its ability to cut across traditional boundaries to solve legal issues in a creative fashion.

#### **Subject Matter Covered:**

The twelve weeks of term (two one and one-half hour sessions per week) will be devoted to an examination of the following topics:

1. Historical background of both quasi-contract and the constructive trust and the bringing together of these two streams of bodies of doctrine into a single body of law unified by the unjust enrichment principle.
2. Recovery of benefits conferred under mistake of fact and mistake of law and defences of estoppel and change of position.
3. Recovery of benefits conferred in the course of an ineffective transaction, including transactions that have failed due to informality, incapacity, illegality, want of authority, and frustration.

4. Recovery of benefits conferred as a result of the compulsory discharge of another's obligation and the defence of "officiousness" to restitutionary actions.
5. Recovery of benefits conferred as a result of criminal and quasi-criminal activity and the doctrine of waiver of tort.
6. Recovery of benefits conferred under compulsion, including economic duress, or as a result of undue influence.
7. Recovery of benefits conferred through a breach of fiduciary duty.
8. Recovery of benefits conferred through a breach of confidence and as a result of an unconscionable transaction.
9. The equitable proprietary remedies of constructive trust and the equitable lien.
10. The doctrine of equitable compensation.
11. The doctrine of tracing, both at common law and in equity.
12. The remedies of indemnity, contribution and subrogation.

**Teaching Methodology:**

The teaching method used will be primarily lecture interspersed with discussion of the key case law and the issues presented in the materials.

**Teaching Materials:**

Each lecture will be centred on key decisions that both illustrate the underlying doctrine and indicate the direction in which courts are headed. A detailed syllabus of the cases (and other materials) to be considered each week will be handed out at the beginning of the course. The leading texts on the subject have been put on reserve in the library.

**Evaluation:**

The course will be evaluated solely on the basis of a final examination of three hours duration during the examination period at the end of term. Each student will be permitted to bring into the examination room only the course book and any notes he or she has prepared during the course. No other books or materials are to be brought into the examination room. In the evaluation of problem questions on examinations, students will be expected to analyze and discuss all major issues raised by the facts, to canvass the case law and/or statutory law which may be applicable, to use the facts and the law to construct arguments for the various parties and give an opinion on the merits of those arguments, to evaluate alternative approaches which may be available to the parties, and to identify minor issues and briefly discuss them. Good organization of the discussion and clarity of expression will improve the answer.