

REMEDIES: CASES, PRACTICAL PROBLEMS & EXERCISES

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PREFACE

In creating this new book, our primary objective was to create a “teacher’s book” — a “tool for learning” that is easy to use, that produces rewarding classroom discussion, and that enables students to learn the concepts, doctrines, and analytical tools that underlie remedies analysis. Although Remedies is a topic that lends itself to interesting discussions, we sought to stimulate additional thought and discussion by including problems that encourage students to think more deeply about the issues presented and to see those issues in modern context.

In addition, the book presents problems and issues in an integrated way that cuts across substantive boundaries. In first-year courses, students have the chance to examine remedial issues as they relate to discrete doctrinal areas (e.g., contract remedies, tort remedies, etc.). While this book examines tort and contract remedies, its problems and exercises take a comprehensive approach designed to examine the interrelationships between various remedies, and to give students a deeper understanding of the correlation between rights and remedies.

In any book, tradeoffs are necessary. This book makes no attempt to cover comprehensively all available remedies. Students have studied remedies in other courses, and complete coverage is duplicative and time consuming. In addition, the comprehensive approach too often leads to abstraction and superficiality. This book assumes that students have a basic understanding of remedies, and tries to present remedial issues in a more integrated, sophisticated way.

The book is divided into two major sections. The early chapters give students a firm grounding in equity and equitable remedies (e.g., injunctions and special restitutionary remedies), contempt, and the prerogative writs (quo warranto, mandamus & prohibition). As the semester progresses, students are asked to draw upon this information, as well as upon their prior legal studies, to analyze practical problems. These problems are constructed to cross subject matter boundaries, analyze competing remedial options, and give students a better understanding of the remedial consequences of litigating a case on one theory rather than another.

The authors actively solicit the advice and comments of those who use this book. In addition, the authors are willing to field questions about the cases, problems or exercises.

RLW, DFP, DEL & MBK

TABLE OF CONTENTS

Chapter 1. Overview

A. Introduction

Chapter 2. Equity and Equitable Remedies

A. A Historical Perspective

B. The Development of Equity in the United States

C. Equitable Remedies Today

D. Equitable Defenses

E. The Right to Trial by Jury

Chapter 3. Enforcement of Equitable Decrees

A. Contempt Defined

B. Civil v. Criminal

C. Procedural Requirements

D. The Duty to Obey: Collateral Challenges

Chapter 4. Injunctions

A. Nature and Purpose of Injunctive Relief

B. Standards for Issuance of Injunctive Relief

C. Permanent Injunctions

D. Framing the Injunction

E. Experimental and Conditional Injunctions

F. Decrees Affecting Third Parties

G. Modification of Decrees

H. Injunctions Against Criminal Activity

I. Injunctions Against Litigation

J. Structural Injunctions

K. Extra-Territorial Decrees

L. National Security

Chapter 5. Restitution

A. General Principles

B. Measuring the Enrichment

C. Special Restitutionary Remedies

Chapter 6. Declaratory Judgments

A. Generally

B. Case or Controversy

C. Jurisdiction

D. Standards of Review

E. Declaratory Judgments in Context

F. The Effect of Declaratory Judgments

Chapter 7. Damage Remedies

- A. General Damage Principles
- B. Limits of Market Measures
- C. Limitations on Recovery
- D. Agreed Remedies
- E. Punitive Damages
- F. Attorneys' Fees

Chapter 8. Remedies in Context

- A. Potential Harm: Misdiagnosis
- B. Potential Harm: Chemical Exposure
- C. Life as Injury
- D. The Breaching Employee
- E. The Discharged Employee
- F. The Coal Mining Lease
- G. Transit Fares
- H. The Vegetarians
- I. Defamation
- J. Privacy
- K. Leafletting
- L. Obscenity
- M. Admission Cases
- N. Expulsion
- O. Specific Performance in Employment Contexts

Chapter 9. Integrated Problems and Exercises

- A. Problems
- B. Exercises