



## CALIFORNIA BAR EXAMINATION CONTENT MAP REMEDIES

The topics listed below are illustrative of those covered in Remedies, but are not exhaustive.

### I. Basic principles

- A. Distinctions between legal and equitable remedies
- B. Classification of remedies

### II. Legal remedies

- A. Damages
  - 1. Definition
  - 2. Compensatory damages
    - a. General Principles
      - (1) Causation
      - (2) Foreseeability
      - (3) Certainty
      - (4) Duty to mitigate
      - (5) Collateral source rule
    - b. Tort damages
      - (1) General damages
      - (2) Special damages
      - (3) Measurement of damages
        - i. Personal property
        - ii. Real property
        - iii. Personal injuries
    - c. Contract damages
      - (1) Expectation damages
      - (2) Reliance damages
      - (3) Consequential and incidental damages
      - (4) Buyers' and sellers' remedies under the U.C.C.
      - (5) Buyers' and sellers' remedies in land sale breaches
      - (6) Owners' and builders' remedies in construction breaches
      - (7) Employer and employee remedies in employment contract breaches
    - d. Real property (including landlord-tenant) damages

- e. Interest as damages
- 3. Non-compensatory damages
  - a. Tort actions
    - (1) Nominal damages
    - (2) Punitive damages
    - (3) Statutory damages
  - b. Contract actions
    - (1) Nominal damages
    - (2) Liquidated damages
      - i. Requirements for enforceability
      - ii. Policy considerations

### **III. Restitution**

- A. Purpose of restitution
- B. Legal restitutionary remedies
  - 1. Quasi-contract/unjust enrichment, quantum meruit
  - 2. Replevin
  - 3. Ejectment
  - 4. Legal rescission
- C. Equitable restitutionary remedies
  - 1. Constructive and resulting trusts
  - 2. Equitable lien
  - 3. Equitable rescission
  - 4. Subrogation
  - 5. Indemnity
  - 6. Contribution

### **IV. Equitable remedies**

- A. Bases for equitable jurisdiction
- B. Injunctions
  - 1. Preventative
  - 2. Reparative
  - 3. Prohibitory
  - 4. Mandatory
  - 5. Temporary restraining orders
  - 6. Preliminary injunctions
  - 7. Permanent injunctions
  - 8. Standards for injunctive relief
    - a. Irreparable injury
    - b. Inadequacy of legal remedy
    - c. Likelihood of success on the merits (applies only to temporary restraining orders and preliminary injunctions)
    - d. Balance of equities, hardships
    - e. Public interest
    - f. Feasibility of enforcement

- C. Specific performance
  - 1. Requirements
  - 2. Applicability of remedy
    - a. Sale of goods
      - (1) Fungibility of goods
    - b. Sale of land
      - (1) Uniqueness of land
    - c. Construction contracts
    - d. Personal services contracts
- D. Reformation
- E. Rescission
- F. Enforcement by contempt power
  - 1. Civil contempt
  - 2. Criminal contempt

**V. Equitable defenses**

- A. Laches
- B. Unclean hands
- C. In pari delicto
- D. Estoppel
- E. Undue hardship
- F. Waiver
- G. Changed circumstances
- H. Unconscionability

**VI. Declaratory remedies**

- A. Declaratory judgments
- B. Reformation
- C. Nominal damages