THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW

FINAL EXAMINATION – APRIL 2016

LAW 436.001
Restitution

Professors Gomery and Senkpiel

TOTAL MARKS: 80

TIME ALLOWED: 3 HOURS
including reading time

NOTE:
1. This is an open book examination.

2. ANSWER ONLY THREE QUESTIONS. EACH QUESTION WILL COUNT FOR ONE-THIRD OF YOUR GRADE

THIS EXAMINATION CONSISTS OF 8 QUESTIONS
1. Does Canadian law acknowledge a unified cause of action for the recovery of 
autonomous unjust enrichment? Discuss the conceptual and practical implications of 
your answer.

2. Which of the following involve unjust enrichment: knowing assistance, knowing receipt, 
the law of tracing, the resulting trust, the remedial constructive trust?

3. Explain the concept of ‘a corresponding deprivation’ and why it is necessary.

4. You are an articled student. Your principal asks you to explain the elements of the cause 
of action for money had and received.

5. In what ways may ‘fault’ be relevant in an action to recover money paid pursuant to a 
contract that has failed?

6. In what circumstances may non-money contributions sought to be recovered in an action 
for unjust enrichment be valued on the basis of ‘value survived’?

7. Why is waiver of tort only available for some torts and not for others? Is there a 
principled basis to distinguish torts that can be ‘waived’ from torts that cannot?

8. Explain when and why a defence of change of position is available, explain its normative 
basis and provide examples of its application.

Good luck!

END OF EXAMINATION