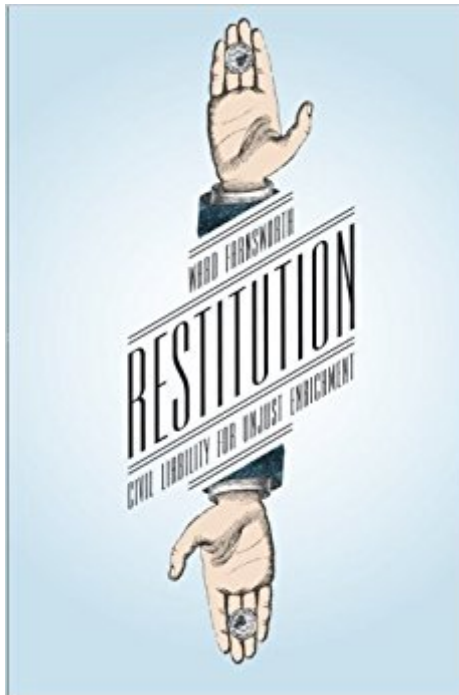




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Restitution: Civil Liability For Unjust Enrichment



Synopsis

Restitution is the body of law concerned with taking away gains that someone has wrongfully obtained. The operator of a Ponzi scheme takes money from his victims by fraud and then invests it in stocks that rise in value. Or a company pays a shareholder excessive dividends or pays them to the wrong person. Or a man poisons his grandfather and then collects under the grandfather's will. In each of these cases, one party is unjustly enriched at the expense of another. And in all of them the law of restitution provides a way to undo the enrichment and transfer the defendant's gains to a party with better rights to them. Tort law focuses on the harm, or costs, that one party wrongfully imposes on another. Restitution is the mirror image; it corrects gains that one party wrongfully receives at another's expense. It is an important topic for every lawyer and for anyone else interested in how the legal system responds to injustice. In *Restitution*, Ward Farnsworth presents a guide to this body of law that is compact, lively, and insightful; the first treatment of its kind that the American law of restitution has received. The book explains restitution doctrines, remedies, and defenses with unprecedented clarity and illustrates them with vivid examples. Farnsworth demonstrates that the law of restitution is guided by a manageable and coherent set of principles that have remarkable versatility and power. Restitution makes a complex and important area of law accessible, understandable, and interesting to any reader.

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"Immensely important. Farnsworth's book is a major contribution to the field,

providing a succinct, clear, and theoretically informed summary of the doctrine. I have little doubt that it will be of frequent use at law schools, courtrooms, and law offices alike, thus providing support to the belated revival of restitution in the United States." (Hanoach Dagan, Stewart and Judy Colton Professor of Legal Theory and Innovation, Tel-Aviv University)"Farnsworth's Restitution offers a fresh look at an underappreciated subject. The analysis is intuitive, full of common sense, and elegantly written and organized. It is traditional in the sense that it takes legal duties and categories seriously, but it is novel in its willingness to set aside esoteric subjects and doctrines in order to produce a concise treatment. I recommend the book to every law student as an example of how to think about a subject that too often falls between the cracks." (Saul Levmore, University of Chicago Law School)"Farnsworth's terrific book covers an amazing amount of material on the law of restitution in a concise, insightful, and appealing fashion. It should contribute greatly to bringing this important branch of the law out of the shadows." (Henry E. Smith, Harvard Law School)"There has never been a good short introduction to the law of restitution and unjust enrichment. There is now, and it's terrific—clear, conversational, sophisticated in its analysis, and with remarkable depth for its 186 pages." (Douglas Laycock, University of Virginia School of Law)"Farnsworth does a terrific job of describing restitution and explaining when it is used and applied. . . . This is a terrific book exploring an often neglected legal concept. . . . Highly recommended." (Choice 2015-04-06)"With illustrative hypotheticals, discussion of case law, and integration of prior scholarship, Farnsworth builds a comprehensive and illuminating approach to the doctrinal contours of restitution." (Harvard Law Review 2016-06-17)

Ward Farnsworth is dean and the John Jeffers Research Chair in Law at the University of Texas School of Law. He is the author many books, including *The Legal Analyst*, also published by the University of Chicago Press.

I just finished Farnsworth's *Classical English Rhetoric*--also a great book--and I got an email reminder from that I could write a review of this one. I bought the book on the strength of Farnsworth's guest blogging at Volokh Conspiracy, and was glad I did. Before encountering the blog posts and the book, I would have said that restitution was merely a kind of remedy, occasionally useful in contract disputes and even more rarely in tort cases of conversion. As Farnsworth points out, that is one way that the term "restitution" is used. But that is not the point of the book. Instead, it turns out that the restitution that the book is about is a whole separate category of causes of action

on a par with torts and contracts. It turns out I had encountered restitution in this sense in law school classes on torts and on contracts, where there were glances at "unjust enrichment" and "quasi-contract" and "promissory estoppel", but with no comprehensive treatment, or even any recognition that it might be possible to discuss restitution as anything other than a kind of exception to the normal proper way of doing things. As with the Rhetoric book, this one on Restitution divides the subject matter into categories based on the intended effect to be achieved; illustrated with plenty of examples.

Very comprehensive and highly readable on a complex area of the law.

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