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Seminar

**Better Than Fuller: A Two Interest
Model of Remedies for Breach of Contract**

Professor David Campbell

Durham Law School, Durham University, UK

Thursday, 5 November 2009

1:00 - 2:00 pm

Room 425, 4/F KK Leung Building, HKU

Though it continues to be subjected to enormous criticism, Fuller and Perdue's three interest model of remedies for breach of contract remains the basic point of reference for discussion of those remedies. The most fundamental recent criticism has been mounted by advocates of the wider availability of restitutionary or disgorgement damages as a means of offering more effective protection of a novel 'performance interest' in contract. Though this criticism is a failure, it certainly has exposed important shortcomings in the three interest model, particularly in the relationship of the two contractual interests proper – expectation and reliance – to the restitution interest. Though other criticisms of the three interest model remain, this has been the most telling so far made.

Professor Campbell will show that the work done by recovery of money had and received can be done by the reliance interest, and that the belief that this is not the case rests on a misunderstanding of the authorities in which recovery seems to provide a superior outcome to the contractual interests, particularly of *Ebrahim Dawood Ltd v Heath (Est 1927) Ltd*. Apart from the theoretical improvement on the three interest model, the two interest model without recovery offers clear practical benefits for the regulation of exchange by the law of contract.

David Campbell was educated at Cardiff University, UK (BSc(Econ) 1980), the University of Michigan School of Law (LLM 1985), and the University of Edinburgh (PhD 1985). He is a Fellow of the Chartered Institute of Arbitrators. Since 1985, he has taught at a number of British universities and in Australia, Hong Kong, New Zealand, Spain and the USA. He currently is a Professor in the Durham Law School, Durham University, UK.

He has written on a wide range of legal and social scientific issues in leading UK, Commonwealth and US journals. His principal recent books are *The Implicit Dimensions of Contract* (with H Collins and J Wightman, eds, 2003), *Remedies in Contract and Tort* (with D Harris and R Halson, 2002), and an edited collection of the works of Ian Macneil: *IR Macneil, The Relational Theory of Contract* (ed D Campbell, 2001). His main current research interests are in remedies for non-performance of contractual obligations and in regulatory theory, and particularly in the development of a 'non-Chicagoan' law and economics of these subjects. He currently is working on a book which restates the relational theory of contract and, with Matthias Klaes, a book on Coase's critique of intervention.

Please register on-line via www.AIIFL.com or
email Flora Leung at fkleung@hku.hk to reserve a place.