



Restitutionary Rights to Share in Damages: Carers' Claims

Simone Degeling

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Rights and obligations can arise, amongst other things, in tort or in unjust enrichment. Simone Degeling deals with the phenomenon whereby a stranger to litigation is entitled to participate in the fruits of that litigation. Two prominent examples of this phenomenon are the carer, entitled to share in the fund of damages recovered by a victim of tort, and the indemnity insurer, entitled to participate in the fruits of the insured's claim against the wrongdoer. Degeling demonstrates that both are rights raised to reverse unjust enrichment. Careful examination of these two categories reveals the existence of a novel policy-motivated unjust factor called the policy against accumulation. Degeling argues that this is an unjust factor of broad application, applying to configurations other than that of the carer and the indemnity insurer. This will interest restitution and tort lawyers, both academic and practitioner, as well as academic institutions and court libraries.

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