

Chapter 17

Breach and Remedies

Chapter Objectives

By the end of this chapter, you should be able to:

- Describe remedies available to the seller in case of a buyer's breach.
- Compare legal remedies and equitable remedies for breaches of contract.
- Describe the remedy of specific performance as it applies to contract law.
- Describe the measure of recovery on a quasi-contract theory.
- Describe when reformation is an appropriate remedy.

Why Do Breach and Remedies Matter?



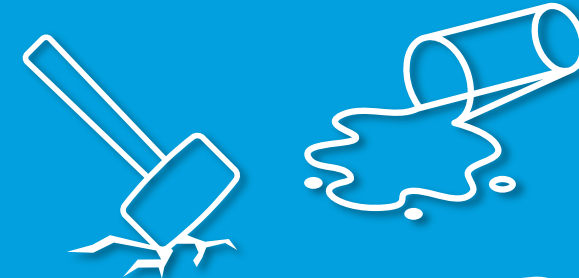
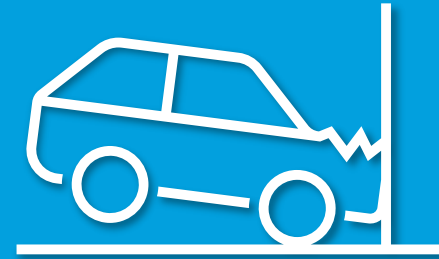
DAMAGES

RESCISSION

RESTITUTION

REFORMATION

SPECIFIC PERFORMANCE



Damages

Types of Damages

1. Compensatory
2. Consequential
3. Punitive
4. Nominal

Compensatory Damages

- **Example 15.1** Jane v. Roy
- **Case Example 15.2** Baird v. Owens
 - Standard Measure (varies by type of contract)
 - Sale of Goods (contract price v. market price)
 - Sale of Land
 - Construction Contracts

Consequential Damages

- Also known as Special Damages
- Punitive Damages
- Nominal Damages
 - **Example 15.6** Hernandez v. Stanley



Landmark in the Law: Hadley v. Baxendale (1854)

Discussion

- When damages are awarded, compensation is given only for those injuries that the defendant could reasonably have foreseen as a probable result of the usual course of events following a breach.
- If the alleged injury is outside the usual and foreseeable course of events, the plaintiff must show specifically that the defendant had reason to know the facts and foresee the injury.
- Does the rule of consequential damages apply to contracts in the online environment as well?

Mitigation of Damages

Employment Contracts

- **Example 15.7** Susan



Rental Agreements

- Landlord is responsible to take a reasonable action

Knowledge Check 1

What are the four broad categories of damages?

1. Compensatory
 2. Fraud
 3. Consequential
 4. Punitive
 5. Provisions
 6. Nominal
 7. Remedies
- A. Compensatory, Consequential, Provisions, Fraud
 - B. Compensatory, Consequential, Punitive, Nominal
 - C. Compensatory, Provisions, Punitive, Remedies
 - D. Compensatory, Provisions, Nominal, Remedies

Liquidated Damages Versus Penalties

Enforceability

1. When the contract was formed, it is apparent that damages would be difficult to estimate in the event of a breach.
2. The amount set as damages is reasonable and not excessive.

Common Uses of Liquidated Damages Provisions

- Construction contracts
- Sale of goods
- Loan contracts
- Contracts with entertainers and professional athletes

Kent State University v. Ford Polling Question



Was the liquidated damages clause in Ford's contract enforceable?

- Yes
- No

Explain your reasoning to another person or classmate.

Equitable Remedies

Rescission and Restitution

- The party seeking rescission must show that the contracting parties can be restored to the *status quo*.
- **Example 15.8** Katie 
- **Case Example 15.9** Lee v. Robles 

Specific Performance

- The party's legal remedy (monetary damages) must be adequate
 - Sale of land
 - Contracts for personal services

Business Law Analysis

Enforceability of Liquidated Damages Provisions

Polling Question

Was KeyBank's loan prepayment penalty clause enforceable?

Yes

No

Explain your reasoning to another person or classmate.

Reformation

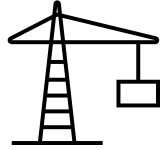
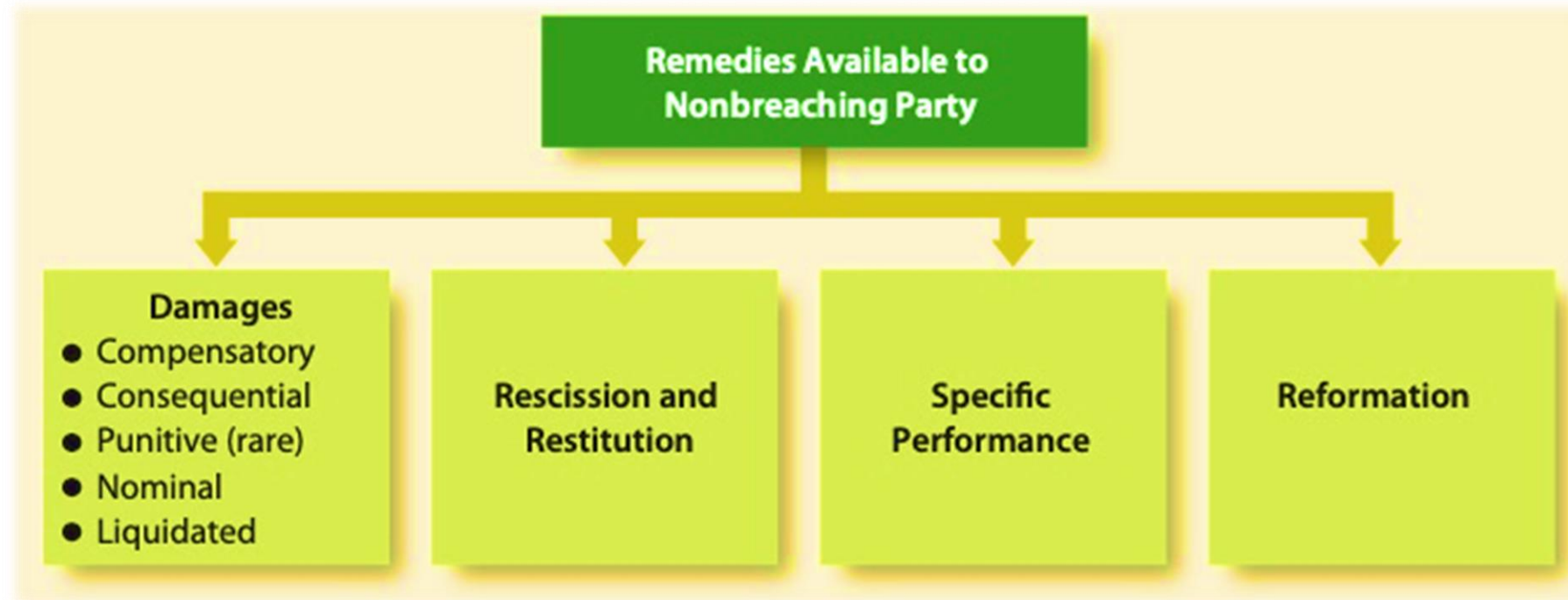
- Fraud or Mutual Mistake
- **Example 15.12 Carson** 
- Incorrect Written Statement of the Parties' Oral Agreement
- Covenants Not to Compete

Exhibit 15-2 Remedies for Breach of Contract



Knowledge Check 2

When fraud, mistake, duress, undue influence, lack of capacity, or failure of consideration is present, rescission is available.

- True
- False

Recovery Based on a Quasi Contract

Requirements of a Quasi Contract

1. The party conferred a benefit on other party.
2. The party conferred a benefit with a reasonable expectation of being paid.
3. The party did not act as volunteer in conferring the benefit.
4. The party receiving benefit could be unjustly enriched if allowed to retain the benefit without paying for it.

Contract Provisions Limiting Remedies

Sales Contracts

- Regulated by the Uniform Commercial Code (UCC)

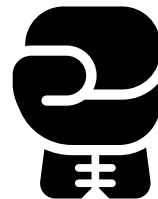
Enforceability of Limitation-of-Liability Clauses

- **Case Example 15.15** Lee Bank & Trust Co. v. SFG Venture, LLC



Group Breakout Discussion: Ethical Issue

- **Scenario:** The Ultimate Fighting Championship (UFC) is the highest league for mixed martial artists (MMA), but their parent company, Zuffa, LLC, places numerous restrictions on fighters such as working with other promoters, profiting from marketing deals, and outside sponsors.
- A group of current and former MMA fighters filed a suit against Zuffa claiming these contract limitations are unjust. Litigation is ongoing.
- Can contracts for MMA fighters limit a fighter's right to stop fighting?



Knowledge Check Video: Specific Performance



Specific
Performance



Knowledge Check Video Question

Specific performance is an equitable remedy that requires the party that breached the contract to fulfill its obligation under the contract.

- True
- False

Video Debrief: Specific Performance

What is your opinion on specific performance?

Do you think it's fair?

Self-Assessment

1. What concepts did you find difficult, and thus need to review?
2. How might the topics in this chapter come up in the future in your personal (or work) life?
3. How can you use your personal (or work) experience to contribute for a class discussion on the topics in this chapter?
4. Which topics would you like to independently learn more about?

Summary

Now that the lesson has ended, you should have learned how to:

- Describe remedies available to the seller in case of a buyer's breach.
- Compare legal remedies and equitable remedies for breaches of contract.
- Describe the remedy of specific performance as it applies to contract law.
- Describe the measure of recovery on a quasi-contract theory.
- Describe when reformation is an appropriate remedy.