

Contracts: Contract Remedies

Contract Remedies

- Used to Compensate Aggrieved Party, rather than Punish Breaching Party
 - Gives aggrieved party the “benefit of the bargain.”
- Monetary Damages
- Equitable Remedies
 - Specific Performance
- Restitution
- Limitations

Compensatory Damages

- Purpose
 - Put non-breaching party in same position as if no breach
 - Incidental Damages
 - Costs incurred in arranging for substitute performance
 - Consequential Damages
 - Includes lost profits and injuries to persons or property resulting from defendant’s defective performance

Punitive Damages

- Imposed to Punish Wrongdoer (rather than Compensate Victim) in Cases of Fraud or Willful Misconduct

Liquidated Damages

- Parties Agree in Advance to the Damages to be Paid if Contract Breached
 - Injury resulting from breach must be difficult or impossible to estimate
 - Must be intended to provide a remedy for the injured party, rather than a penalty on the defaulting party
 - Enforced if reasonable projection of loss

Limitations on Monetary Damages

- Reasonable Certainty, not Speculative
- Losses must have been Foreseeable
- All Plaintiffs, have Duty to Mitigate (Lessen) Damages

Remedies in Equity

- Specific Performance
 - Unique subject matter
- Injunctions

Restitution

- Restoring the Aggrieved Party to his Prior Position, not the Position that he would have been in had the Contract been Performed
- Rescission is always Coupled with Restitution
 - Parties return money, property or other benefits to restore prior positions (ex. Voidable contracts)
