**Contracts – Rules of Law**

**1st Semester**

**Bailey v. West**

#### Rule: A contract is implied in fact if there is a mutual agreement between the parties and intent to promise, but the agreement and promise are implied from the parties’ conduct and other facts, rather than made in words.

#### Bolin Farms v. American Cotton Shippers Association

#### Rule: A change in circumstances following entrance into a forward sales contract does not make the contract unenforceable.

**Williams v. Walker-Thomas Furniture Co.**

**Rule: When an element of unconscionability is present at the time of contract formation, the resulting contract is not enforceable.**

**Sullivan v. O'Connor**

**Rule: Pain and suffering and emotional distress that flow naturally from a breach are compensable contract damages under either an expectancy or reliance measure.**

**Hadley v. Baxendale**

**Rule: When one party breaches a contract, the other party may recover all damages that are reasonably foreseeable to both parties at the time of making the contract, as well as damages stemming from any special circumstances, provided those circumstances were communicated to and known by all parties at contract formation***.*

**Kirksey v. Kirksey**

**Rule: A promise to provide free land for a residence that is fulfilled for a finite amount of time and then revoked is gratuitous and thus unenforceable despite inducing the promisee to move residences in reliance on the promise.**

**Hamer v. Sidway**

**Rule: A party's agreement to incur a detriment constitutes adequate consideration.**

**Langer v. Superior Steel Corp.**

**Rule: Sufficient consideration for an enforceable contract exists when one party agrees to do something or refrains from doing anything that he has a right to do, regardless of whether doing so causes any actual detriment to him or confers any actual benefit upon the other party.**

**Pennsy Supply, Inc. v. American Ash Recycling Corp. of Pennsylvania**

**Rule: There may be sufficient consideration to form an enforceable contract even though the parties have not bargained for the specific terms of the agreement.**

**In re Greene**

**Rule: Nominal payments and vague statements of consideration are insufficient to support a contract.**

**Cohen v. Cowles Media Co.**

**Rule: Under the doctrine of promissory estoppel, injustice can be prevented by awarding damages to a confidential source if a news organization has broken a promise of anonymity.**

**First Hawaiian Bank v. Jack Zukerkorn**

**Rule: In Hawaii, a new express or implied promise to pay a debt by the debtor, whether then barred by the applicable statute of limitations or not, binds the debtor for a new statute of limitations period.**

**Mills v. Wyman**

**Rule: A promise based on a moral obligation but made without legal consideration does not constitute an enforceable contract unless it is tied to a preexisting legal obligation.**

**Webb v. McGowin**

**Rule: When a promisee confers upon a deceased promisor a benefit that is material and substantial, and is conveyed upon the person of the promisor and not merely his estate, the promisee is entitled to recognition and compensation from the promisor’s estate either by an executed payment or an executory promise to pay.**

**Thomas v. Thomas**

**Rule: An agreement between two parties is enforceable provided there is sufficient consideration, regardless of the parties’ motives for making the agreement.**

**Browning v. Johnson**

**Rule: In a unilateral contract, sufficient consideration to support a promise exists when, at the request of the promisor, the promisee incurs a detriment or the promisor receives a benefit.**

**Apfel v. Prudential-Bache Securities, Inc.**

**Rule: Disclosure of an idea by a seller may constitute consideration to support a contract even if the idea is not novel, provided the idea possesses value to the buyer.**

**Levine v. Blumenthal**

**Rule: Adequate additional consideration is necessary to support a subsequent agreement made by parties to a contract that changes the terms of the contract.**

**Alaska Packers’ Ass'n v. Domenico**

**Rule: If parties enter a new agreement under which one party agrees to do no more than he was already obligated to do under an existing contract, the new agreement is unenforceable for lack of consideration.**

**Angel v. Murray**

**Rule: When unexpected or unanticipated difficulties arise during the course of performance of a contract, the parties may modify the initial contract even without additional consideration for the modification as long as (1) the parties voluntarily agree and the promise modifying the initial contract is made before the contract is fully performed on either side; (2) the underlying circumstances prompting the modification are unanticipated by the parties; and (3) the modification is fair and equitable.**

**Rehm-Zeiher Co. v. F.G. Walker Co.**

**Rule: A contract lacking mutuality of obligation between the parties is unenforceable.**

**McMichael v. Price**

**Rule: Mutuality of obligation exists when there is a limitation on the ability of both parties to cancel the contract according to their discretion alone.**

**Wood v. Lucy, Lady Duff-Gordon**

**Rule: (1) A contract may be enforced when there is no evidence of a promise, exchanged as consideration, in the explicit terms of the contract. (2) A promise to use reasonable efforts may be implied from the entire circumstances of a contract.**

**Omni Group, Inc. v. Seattle-First National Bank**

**Rule: Where a party’s judgment on some issue is a condition precedent to his promise, the judgment must be made in good faith and that duty to act in good faith is sufficient consideration to make the promise valid.**

**Ricketts v. Scothorn**

**Rule: Equitable estoppel prevents a promisor from revoking an otherwise unenforceable gratuitous promise if the promisee foreseeably and reasonably relied on the promise to her detriment.**

**Allegheny College v. National Chautauqua County Bank**

**Rule: A party's acceptance of a portion of a pledged donation constitutes sufficient consideration to enforce the promise to pay the remainder of the donation.**

**Congregation Kadimah Toras-Moshe v. DeLeo**

**Rule: An oral promise for a charitable gift is generally not enforceable in the absence of consideration or reliance on the promise.**

**Embry v. Hargadine, McKittrick Dry Goods Co.**

**Rule: Regardless of the parties’ subjective or actual intent, if a reasonable man could infer from their conduct intent to enter into a binding and enforceable contract, a binding and enforceable contract is presumed to exist.**

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**Lucy v. Zehmer**

**Rule: The objective, outward expression of a party’s intent to be bound in an agreement, as opposed to that party’s subjective mental assent to the agreement, is all that matters when determining the existence of a valid and enforceable contract.**

**Raffles v. Wichelhaus (The *Peerless*Case)**

**Rule: There is no contract if there is a mutual misunderstanding by both parties as to the meaning of a term of an agreement.**

**Wrench, LLC v. Taco Bell Corp.**

**Rule: A contract between two parties may be implied in fact when there is no intent to enter into a contract manifested by the direct or explicit words of the parties, but intent is instead implied by or deduced from the parties’ conduct, language used, actions, or other circumstances.**

**Lonergan v. Scolnick**

**Rule: A property owner who asks another person if he is interested in purchasing the property has not, merely by asking, made an offer to the other person.**

**Southworth v. Oliver**

**Rule: Even if there are no express words indicating intent by the parties to be bound, a contract may still be implied when, based on all the facts and circumstances, a reasonable person in the position of the plaintiff could have inferred a promise from the defendant’s actions.**

**Lefkowitz v. Great Minneapolis Surplus Store**

**Rule: An advertisement constitutes a binding offer if it is clear, definite, and explicit, and leaves nothing open for negotiation.**

**Leonard v. Pepsico**

**Rule: An advertisement does not constitute an offer unless its terms are sufficiently clear and leaves nothing open for negotiation and an advertisement intended to be a joke cannot be sufficiently clear.**

**La Salle National Bank v. Vega**

**Rule: An offer to form a contract may only be accepted according to the terms and conditions of the offer.**

**Hendricks v. Behee**

**Rule: An offeror may revoke an offer at any time before the offeree has communicated acceptance to the offeror or the offeror's agent.**

**Carlill v. Carbolic Smoke Ball Co.**

**Rule: A general advertisement of an award constitutes an offer that is capable of being accepted and binding the offeror in a valid contract, provided at least contemporaneous notice and some consideration are present.**

**Corinthian Pharmaceutical Systems, Inc. v. Lederle Laboratories**

**Rule: Under U.C.C. § 2-206, acceptance can be made by shipment of non-conforming goods unless the non-conforming goods are accompanied by a notice indicating that the non-conforming goods are offered as an accommodation.**

**Industrial America, Inc. v. Fulton Industries, Inc.**

**Rule: When an offeror requests an act in return for his promise and the offeree fully performs the act, this full performance constitutes sufficient acceptance of the offer to form a binding contract.**

**Glover v. Jewish War Veterans of United States**

**Rule: An offeree may not unknowingly accept an offer and thus form a binding contract if the offeree has no knowledge of the offer.**

**Ever-Tite Roofing Corp. v. Green**

**Rule: A contract may be created by acceptance of the offer within a time frame specified by the offer or, if no time is specified, within a reasonable time.**

**Ammons v. Wilson & Co.**

**Rule: When certain circumstances give an offeror reason to believe that silence or inaction by the offeree constitute acceptance, the offeree’s silence and inaction may be treated as acceptance capable of forming a binding contract.**

**Schreiber v. Olan Mills**

**Rule: To establish a contract, there must be a meeting of the minds such that the parties mutually assent to the same thing.**

**Beneficial National Bank, U.S.A. v. Payton**

**Rule: A mandatory arbitration provision added to a credit card agreement is binding upon a cardholder so long as the cardholder receives notice of the change.**

**Dickinson v. Dodds**

**Rule: An offer may be revoked by the offeror without an express or actual statement of revocation communicated to the offeree provided there has been no meeting of the minds and the offeree is aware of conduct by the offeror demonstrating intent to revoke the offer.**

**Humble Oil & Refining Co. v. Westside Investment Corp.**

**Rule: When an irrevocable option contract supported by consideration exists, the offeror must keep the option open for the time period specified in the contract, and a counteroffer or other negotiations made by the offeree within this time frame will not terminate the offeree’s power to accept the option.**

**Marchiondo v. Scheck**

**Rule: When an offer for a unilateral contract is made, and part performance of the offer is completed by the offeree, the offeror may not then revoke the offer.**

**James Baird Co. v. Gimbel Bros., Inc.**

**Rule: The doctrine of promissory estoppel cannot be asserted to compel performance if the promisee has not provided consideration to the promisor.**

**Drennan v. Star Paving Co.**

**Rule: An offer which the offeror should reasonably expect to induce definite and substantial reliance by the offeree, and which does induce such reliance is binding on the offeror and enforceable even without consideration if enforcement is necessary to prevent injustice to the offeree.**

**Adams v. Lindsell**

**Rule: When a written offer is proposed by an offeror via postal mail, the offeree’s acceptance of the offer is valid if mailed within the time frame specified within the offer, if the manner of acceptance is permitted by the offer.**

**Minneapolis & St. Louis Railway Co. v. Columbus Rolling-Mill Co.**

**Rule: When an offer is made, acceptance is not valid unless the terms of the acceptance exactly mirror the terms contained in the offer.**

**Laidlaw v. Organ**

**Rule: Where the means of intelligence about extrinsic information is equally accessible to both parties to a contract, the knowing party does not have a duty to disclose the information to the other party, but at the same time, the knowing party may not say or do anything to mislead the other party.**

**Marina District Development Co., LLC v. Ivey**

**Rule: A party’s misrepresentation is not material if the other party would have taken the same course of action if the misrepresenting party had made no representation at all.**

**Vokes v. Arthur Murray, Inc.**

**Rule: A statement of opinion may be actionable as a misrepresentation where the party stating his opinion possesses superior knowledge of the truth or falsity of the statement.**

**Hill v. Jones**

**Rule: Where a seller of real property knows of facts that materially affect the value of the property and are not readily observable and known to the buyer, the seller has a duty to disclose these facts to the buyer.**

**Rubenstein v. Rubenstein**

**Rule: A contract may be voidable for duress if one party wrongfully induces the other party to act by creating in the second party a fear of loss of life, fear of loss of limb, fear of mayhem, or fear of imprisonment.**

**Austin Instrument, Inc. v. Loral Corp.**

**Rule: A contract is voidable on the ground of economic duress if it is established that the party making the claim was forced to agree to the contract by means of a wrongful threat precluding the exercise of his free will.**

**Machinery Hauling, Inc. v. Steel of West Virginia**

**Rule: The expectancy of a future business relationship is not a legal right on which a plaintiff may base a claim of economic duress.**

**Midterm**

**Ora Lee Willimas v. Walker-Thomas Furniture Co.**

**Rule:** **When an element of unconscionability is present at the time of contract formation, the resulting contract is not enforceable.**

**Clifton Jones v. Star Credit Corp.**

**Rule: An excessive price set forth in a contract may be found to be unconscionable as a matter of law.**

**In re Louis Fleet v. United States Consumer Council**

**Rule:**  **A determination that a commercial entity’s practices are “unconscionable” is made by examining factors including the price charged for a good or service, the gross excessiveness of the price charged in relation to the seller’s costs, and the value of the good or service sold relative to the price paid by the consumer.**

**Misty Ferguson v. Countrywide Credit Industries, Inc.**

**Rule: A contract must be both procedurally and substantively unconscionable to be unenforceable on the ground of unconscionability.**

**Elaine Zapatha v. Dairy Mart, Inc.**

**Rule: (1) Whether an agreement is unconscionable must be decided on a case-by-case basis, and depends on whether at the time of execution the contract provision could result in unfair surprise and was oppressive to the other party; and (2) A merchant seeking to terminate a business agreement must act in good faith by practicing honesty in fact and observing reasonable commercial standards of fair dealing.**

**Coursey v. Caterpillar, Inc.**

**Rule: In seeking to void a commercial contract because it is unconscionable, the buyer must prove the existence of both procedural and substantive factors showing unconscionability**.

**Sinnar v. Le Roy**

**Rule:** **If evidence presented in court tends to establish the presence of serious illegality in the making of a contract, the court may independently consider the illegality, even if no defense of illegality was raised by the contracting parties.**

**Homami v. Iranzadi**

**Rule**: **A contract which has as its object an illegal purpose is contrary to public policy and void.**

**Broadley v. Mashpee Neck Marina, Inc.**

**Rule**: **A court may uphold an overbroad exculpatory clause by treating only one part of the clause as enforceable provided there is no bad faith or unfair dealing.**

**Data Management, Inc. v. Greene**

**Rule**: **If an overbroad covenant not to compete can be reasonably altered to render it enforceable, then the court shall do so unless it determines the covenant was not drafted in good faith.**

**Watts v. Watts**

**Rule**: **Unmarried cohabitants may each be entitled to a share of the wealth jointly accumulated during the cohabitation.**

**Maureen Kass v. Steven Kass**

**Rule**: **In New York, agreements entered into between a man and woman related to the disposition of pre-zygotes are presumed valid and binding and will be enforced in any subsequent dispute.**

**A.Z. v. B.Z.**

**Rule**: **Under Massachusetts law, an agreement compelling a person to become a parent in the future against his or her will is not enforceable.**

**Wallis v. Smith**

**Rule**: **Under New Mexico law, a man may not recover from the mother of his child for contraceptive fraud or breach of a promise to use birth control.**

**Mitchill v. Lath**

**Rule of Law**: **Under the parol evidence rule, written or oral evidence that contradicts a final written agreement is not admissible in a court of law unless it constitutes a parol collateral agreement that is completely distinct from and independent of the final written agreement**

**Masterson v. Sine**

**Rule**: **Even when it is unclear whether a written contract is intended by the parties to be complete, evidence of a separate oral agreement may be admissible to prove the terms of the contract if the oral agreement is something that would naturally be made as a separate agreement by the parties given their actual situation and circumstances when drafting the written contract.**

# **Alaska Northern Development, Inc. v. Alyeska Pipeline Service Co.**

**Rule: In order to exclude parol or extrinsic evidence regarding the inclusion of additional terms to a writing, the court must determine whether the writing in question was integrated and, if so, whether the extrinsic evidence at issue contradicts or is inconsistent with the integrated portion of the writing.**

# **Pacific Gas & Electric Co. v. G.W. Thomas Drayage & Rigging Co.**

**Rule: If a preliminary consideration of all credible evidence offered to prove the intent of the parties still leaves contractual terms fairly susceptible to at least two rational interpretations, extrinsic evidence relevant to prove either of these meanings is admissible.**

# **Frigaliment Importing Co. v. B.N.S. International Sales Corp.**

**Rule: If the parties to a contract subjectively, but in good faith, construe an ambiguous term differently, courts may look to external factors to determine the proper interpretation of the term.**

# **In re Katrina Canal Breaches Litigation**

**Rule: Insurance contract terms should be construed according to their plain, ordinary, and generally prevailing meaning, and unambiguous insurance contract terms should be enforced as written.**

**Hunt Foods and Industries, Inc. v. Doliner**

**Rule:** **Terms set forth in a writing intended by the parties as a final expression of their agreement may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, but may be explained or supplemented by evidence of consistent additional terms, unless the court finds the writing to have been intended also as a complete statement of the terms of the agreement.**

**Centronics Corporation v. Genicom Corporation**

#### Rule: Under an agreement that either expressly or impliedly vests one party with a degree of discretion in performance sufficient to deprive another party of a substantial proportion of the agreement’s value, the parties’ intent to be bound by an enforceable contract raises an implied obligation of good faith to observe reasonable limits in exercising that discretion, consistent with the parties’ purposes for contracting.

**Patterson v. Meyerhofer**

#### Rule: The parties to any contract impliedly promise that they will not intentionally or purposefully prevent one another from carrying out the agreement.

**Market Street Associates Limited Partnership v. Frey**

**Rule: The duty of good faith prevents a party from taking opportunistic advantage of another party in a way that was not resolved explicitly by the parties at the time of drafting and that undermines the parties' cooperative venture.**

**Austrian Airlines Oesterreichische Luftverkehrs AG v. UT Finance Corp.**

**Rule: A merchant buyer does not necessarily act in bad faith when it rejects a nonconforming tender because the market for the resale of the goods has declined.**

**Billman v. Hensel**

**Rule: A “subject to financing” clause included as a condition in a contract imposes upon the buyers an implied obligation to make a reasonable and good faith effort to satisfy the condition by obtaining the requisite financing.**

**Feld v. Henry S. Levy & Sons, Inc.**

**Rule: In an output contract for the sale of goods, the quantity of output is such actual output as occurs in good faith based on the seller’s best efforts to supply the goods.**

**Roth Steel Products v. Sharon Steel Corp.**

**Rule**: **A merchant party to a contract may only seek contract modification by acting in good faith, meaning conduct that is consistent with reasonable commercial standards of fair dealing in the trade, and motivation by an honest desire to compensate for commercial exigencies.**

# **Beneficial National Bank, U.S.A. v. Payton**

**Rule: A mandatory arbitration provision added to a credit card agreement is binding upon a cardholder so long as the cardholder receives notice of the change.**

# **Zapatha v. Dairy Mart, Inc.**

**Rule: (1) Whether an agreement is unconscionable must be decided on a case-by-case basis, and depends on whether at the time of execution the contract provision could result in unfair surprise and was oppressive to the other party; and (2) A merchant seeking to terminate a business agreement must act in good faith by practicing honesty in fact and observing reasonable commercial standards of fair dealing.**

# **Hillesland v. Federal Land Bank Association of Grand Forks**

**Rule: An employment having no specified term may be terminated at the will of either party by providing notice to the other party.**

**Rogath v. Sieborman**

#### Rule: If a buyer signs a contract with full knowledge of facts disclosed by the seller that would constitute breach of warranty under the terms of the contract, the buyer cannot then assert a claim for breach of warranty.

# **V.S.H. Realty, Inc. v. Texaco, Inc.**

**Rule: If a contracting party discloses partial information that may be misleading, that party has a duty to reveal all the material facts it knows to avoid liability for deceiving the other party.**

# **All-Tech Telecom, Inc. v. Amway Corp.**

#### Rule: Under the economic loss doctrine, commercial contracting parties may not bring tort claims against one another for pecuniary losses where adequate contract remedies exist.

**Mark Dove v. Rose Acre Farms, Inc.**

**Rule: When a contract contains an express condition, nonperformance of the condition by one party relieves the other party of his own contractual obligations.**

**In re Carter's Claim**

**Rule: If a contractual provision is clearly and unambiguously labeled as a condition precedent, the provision will not be treated as a warranty instead.**

**William Clark v. John West**

**Rule: A “waiver” is the voluntary and intentional relinquishment of a known right, and implies an election to dispense with something of value or forego some advantage which the party waiving it might at its option have demanded or insisted upon.**

**Dynamic Machine Works, Inc. v. Machine and Electrical consultants, Inc.**

**Rule: A buyer may not unilaterally retract a written extension constituting a modification to an agreement to purchase a product, but if the written extension constitutes a waiver of an executory portion of the agreement, the buyer may unilaterally retract the extension by providing reasonable notice to the seller, provided the seller has not materially relied upon the extension to its detriment.**

**Forrest Ferguson v. Phoenix Assurance Company of New York**

**Rule:** **Where a rule of evidence is imposed by a provision in an insurance policy, the assertion of such a rule by the insurance carrier, beyond the reasonable requirements necessary to prevent fraudulent claims against it, is against public policy.**

**Palmer v. Fox**

**Rule**: **When the intent of the parties to a contract indicates that covenants are to be performed at the same time, the covenants are dependent and neither party can bring an action for breach against the other unless he has performed his own covenant.**

**\*\*\*Jacob and Youngs, Inc. v. George E. Kent**

**Rule**: **If a party substantially performs its obligations under a contract, that party will not be forced to bear the replacement cost needed to fully comply with the agreement but instead will owe the non-breaching party the difference in value between full performance and the performance received.**

**Bolin Farms v. American Cotton Picker’s Assoc.**

**Rule: A change in circumstances following entrance into a forward sales contract does not make the contract unenforceable.**

**U.S. v. Wegematic**

**Rule: Delay in delivery is not a breach if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the contract was made.**

**Taylor v. Caldwell**

#### Rule: In contracts in which the performance depends on the continued existence of a given person or thing, a condition is implied that the impossibility of performance arising from the perishing or destruction of the person or thing shall excuse the performance.

# **Canadian Industrial Alcohol Co. v. Dunbar Molasses Co.**

#### Rule: When the continuance of special circumstances appears from the terms of the contract to have been an assumption in the minds of the contracting parties conditioning their belief in a continued obligation, performance of that obligation is not excused by impossibility absent extreme or unavoidable circumstances.

**Dills v. Town of Enfield**

#### Rule: When the occurrence of an unforeseen supervening event or contingency makes performance of contractual obligations impracticable, a party may be excused from performance by demonstrating that the event made the performance impracticable, the nonoccurrence of the event was a basic assumption on which the contract was made, the impracticability resulted without the fault of the party seeking to be excused, and the party has not assumed a greater obligation than the law imposes.

# **Centex Corporation v. Dalton**

**Rule: The performance of a contract is excused by a supervening impossibility caused by the operation of a change in law when such change in law would make the performance illegal.**

**Kaiser-Francis Oil Co. v. Producer’s Gas Co.**

#### Rule: Neither a decline in demand, nor an inability to sell a product at or above the contract price, constitutes a force majeure event sufficient to exclude liability for the parties to perform the contract.

**Paradine v. Jane**

#### Rule: A party to a contract is required to perform as agreed under the contract even if he experiences a frustration of purpose.

**Krell v. Henry**

#### Rule: When a condition that is not expressly mentioned in a contract can nevertheless be implied from extrinsic evidence as being understood by both parties to be the subject matter of the contract, the nonoccurrence of the condition may excuse nonperformance of the contract by both parties.

**Washington State Hop Producers, Inc. v. Goschie Farms, Inc.**

#### Rule: Where, after a contract is made, a party’s principal purpose is substantially frustrated without his fault by the occurrence of an event the non-occurrence of which was a basic assumption on which the contract was made, the party’s remaining duties to perform under the contract are discharged, unless the contract language or factual circumstances indicate the contrary.

**Albert Hochster v. Edgar De La Tour**

**Rule**: **When one party to an agreement is informed by another party to the agreement that the second party intends to breach the agreement, the first party has an option to file suit for damages immediately in anticipation of the breach, or to wait until the act was supposed to be done.**

**H.B. Taylor v. Elizabeth Johnston**

**Rule**: **Anticipatory breach occurs when a promisor repudiates a contract before the specified time for performance has arrived.**

**Alaska Pacific Trading Co. v. Eagon Forest Products, Inc.**

**Rule**: **Under Article II of the Uniform Commercial Code (U.C.C.), only perfect tender will satisfy a sales contract, and a buyer may reject delivery of goods that do not conform exactly to the contract.**

**Northern Indiana Public Services Co. v. Carbon County Coal Co**

**Rule**: **(1) The defense of illegality is not automatically applicable if a party to a lawful contract acts unlawfully in performing under the contract.**

**(2) A party to a fixed-price contract may not excuse performance for frustration of purpose or impossibility.**

**Walgreen Co. v. Sara Creek Property Co.**

**Rule**: **Damages are the normal remedy for a breach of contract, but a permanent injunction may be more appropriate if the plaintiff shows that damages are inadequate based on balancing the costs and benefits of the alternatives.**

# **Sullivan v. O'Connor**

**Rule: Pain and suffering and emotional distress that flow naturally from a breach are compensable contract damages under either an expectancy or reliance measure.**

**Sidney Bernstein v. Ronald Nemeyer**

**Rule: Restitution is an equitable remedy designed to avoid unjust enrichment of the breaching party by putting the breaching party back in the position he would have been in if the contract had not been made.**

**Glendale Federal Bank, FSB v. United States**

**Rule:** **Reliance damages, actual out-of-pocket costs incurred by a non-breaching party that would not have been incurred but for the contract and its subsequent breach, may include restitution damages to recover expenditures of the non-breaching party in performance of the contract.**

**Clark v. Marsiglia**

**Rule: Once a contract is breached, the non-breaching party is not entitled to recover for work performed after the breach.**

**Spang Industries , Inc. Fort Pitt Bridge Division v. Atena Casuality & Surety Co.**

**Rule: When potential damages from a breach of contract may be foreseen by the parties at the time of contract formation and a breach actually does occur, the breaching party must provide recovery for these damages to the injured party.**

**Hydraform Products Corp. v. American Steel & aluminum Corp.**

**Rule: To recover for consequential damages, the damages must be reasonably foreseeable, ascertainable, and unavoidable.**

**American Mechanical Corp. v. Union Machine Co. of Lynn, Inc.**

**Rule: In Massachusetts, a party suing to recover damages for breach of contract may recover if the loss was reasonably foreseeable by the parties or actually within their contemplation at the time the contract was entered into.**

**Locks v. Wade**

**Rule: When an agreement for the lease of goods is breached, the lessor may recover the lost profits he would have earned on the contract minus the cost he would have incurred performing the contract.**

**Rosario Inchaustegui v. 666 5th Avenue Limited Partnership**

**Rule: When a tenant breaches a lease agreement by failing to obtain insurance coverage for a landlord but the landlord obtains an independent insurance policy, the landlord may only recover from the tenant the cost of maintaining and securing the independent insurance policy, plus any other costs associated with maintaining the policy.**

**Reliance Cooperage Corp. v. Treat**

**Rule: If a party repudiates a contract it does not change the damages to be awarded nor is the affected party required to mitigate damages.**

**Jacob &Youngs v. George Kent**

**Rule: If a party substantially performs its obligations under a contract, that party will not be forced to bear the replacement cost needed to fully comply with the agreement but instead will owe the non-breaching party the difference in value between full performance and the performance received.**

**John and Catherine Rivers v. Barry Deane**

**Rule:** **When a breach of a construction contract is so substantial as to render the finished building partially unusable and unsafe, the measure of damage is the market price of completing or correcting the performance.**

**Peevyhouse v. Garland Coal & Mining Company**

**Rule: Regardless of any agreement of the parties, damages awarded for breach of an agreement to perform remedial work on property should normally be measured by the reasonable cost of performance of the work; but, when the contract provision breached is merely incidental to the main purpose in view and where the economic benefit which would result to the owner from full performance is grossly disproportionate to the cost of performance, damages should instead be limited to the diminution in value resulting to the premises because of the non-performance.**

**American Standard, Inc. v. Harold Schectman**

**Rule: In a construction contract, the injured party may recover the cost of completing unfinished work even if the value of the property as a whole is not diminished by the unfinished work.**

**Marcus Lowy v. United Pacific Insurance Co.**

**Rule: If a specified sum of money is to be paid on full performance, the actor is not entitled to any part of the sum until completion, unless full performance has been excused, prevented, or delayed by the act of the other party.**

**New Era Homes Corp. v. Engelbert Forster**

**Rule: A contract requiring scheduled installment payments throughout performance is not necessarily divisible based on separate acts of performance.**

**Britton v. Turner**

**Rule: Where an employee voluntarily breaches a contract for labor by failing to continue the agreed employment, the employee is entitled under quantum meruit to the reasonable value of the services provided, unless the contract specifically provides otherwise.**

**Kaplan v. Mayo Clinic**

**Rule: Summary judgment is not warranted in a breach of contract claim if a plaintiff can sufficiently show the formation of a contract, the defendants’ breach of the contract, and resulting damages.**

**Plotnik v. Meihaus**

**Rule: Damages for emotional distress may be recovered in an action for trespass to personal property.**

**Acquista v. New York Life Insurance Company**

**Rule: Where an insurer fails to pay benefits to which the insured is entitled, the contract damages available to the insured may include foreseeable money damages beyond the limit of the insurance policy.**

**Boise Dodge, Inc. v. Clark**

**Rule: The amount of punitive damages awarded to a party must bear a reasonable relation to the amount of actual damages suffered by the party.**

**White Plains Coat & Apron Co., Inc. v. Cintas Corp.**

**Rule: A generalized economic interest in soliciting business does not constitute a defense to a claim of tortious interference with an existing contract if the alleged tortfeasor has no previous economic relationship with the breaching party.**

**Curtice Brothers Co. v. Catts**

**Rule: Under special circumstances, specific performance may be an appropriate remedy for breach of contract involving the sale of goods.**

**Lumley v. Wagner**

**Rule: A court of equity may impose a negative injunction on an individual, preventing her from doing something.**

**Curb Records, Inc. v. McGraw**

**Rule: Injunctive relief is not appropriate in a case involving a contract for unique and extraordinary services if the contract does not provide a sufficiently definite term length.**

**Southwest Engineering Co. v. United States**

**Rule: When parties at the time of contract formation have agreed upon a liquidated damage provision as a reasonable forecast of just compensation for breach of contract and damages are difficult to estimate accurately, the liquidated damages provision should be enforced.**

**Cellphone Termination Fee Cases**

**Rule: In California, a liquidated damages clause in a consumer contract is presumed void unless rebutted by specific evidence.**

**Lewis Refrigeration Co. v. Sawyer Fruit, Vegetable and Cold Storage Co.**

**Rule: An exclusive remedy that fails its essential purpose should not be enforced, and consequential damages may be awarded instead unless they have been validly limited by merchant parties.**

**Ed Bertholet & Associates, Inc. v. Ed Stefanko**

**Rule of Law: in Indiana, contract provisions requiring the issuance of an injunction are not binding on trial courts.**

**Hall Street Associates, L.L.C. v. Mattel, Inc.**

**Rule: Under the Federal Arbitration Act, 9 U.S.C. § 2, a court must confirm an arbitration award unless it is vacated, modified, or corrected as prescribed in §§ 10 and 11 of the Act.**

**Michael-Curry Co. v. Knutson Shareholders**

**Rule: A claim for fraud in the inducement will be subject to arbitration if the language of a contractual arbitration clause either specifically shows that the parties intended to arbitrate fraud in the inducement, or is sufficiently broad to comprehend that the issue of fraudulent inducement be arbitrated.**

**Stolt-Nielsen Societe Anonyme v. AnimalFeeds International Corporation**

**Rule: A district court may vacate an arbitration award if there was a manifest disregard for the law by the arbitrators.**

**Misty Ferguson v. Countrywide Credit Industries, Inc.**

**Rule: A contract must be both procedurally and substantively unconscionable to be unenforceable on the ground of unconscionability.**

**AT&T Mobility, LLC v. Concepcion**

**Rule: The Federal Arbitration Act preempts any state law that conflicts with it.**

**Allhusen v. Caristo Construction Corp.**

**Rule: Parties to a contract may prohibit the assignment of contractual rights.**

**Owen v. CNA Insurance/Continental Casualty Company**

**Rule: A contract provision limiting or prohibiting assignments of contractual rights operates only to limit the parties’ rights to assign the contract, but not their power to assign, unless the parties specifically manifest an intent to the contrary.**

**Continental Purchasing Co. v. Van Raalte Co.**

**Rule: If a debtor receives notice that his debt has been assigned to a third party but continues to pay the original creditor directly instead of the third party assignee, the debtor is liable for the resulting damage to the assignee.**

**Sally Beauty Co. v. Nexxus Products Co.**

**Rule: Under Section 2-210 of the Uniform Commercial Code, an obligor's performance under an exclusive-distribution agreement may not be delegated to the wholly-owned subsidiary of a direct competitor unless the obligee consents.**

**KMART Corporation v. Balfour Beatty, Inc.**

**Rule: Unless otherwise agreed between a promisor and promisee, a beneficiary of a promise is an intended third-party beneficiary if recognition of a right to performance in the beneficiary is appropriate to carry out the intent of the parties and either the performance of the promise will satisfy an obligation of the promisee to pay money to the beneficiary, or the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance.**

**Hale v. Groce**

**Rule: A third-party beneficiary of a contract can enforce the contract if the parties to the contract intended the third party to benefit.**

**Zigas v. Superior Court**

**Rule: Standing to sue as a third-party beneficiary to a government contract depends on the intent of the parties as manifested by the contract and the circumstances surrounding its formation.**

**Tweeddale v. Tweeddale**

**Rule: When one person, in exchange for consideration from another, contracts to pay a third person a sum of money, there is an immediate contractual right created in the third person regardless of the third person’s knowledge of the original transaction.**