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**COLLEGE: LAW**

**COURSE TITLE: LAW OF CONTRACT II**

**(1)**

**Breach of contract is a**[**legal**](https://en.m.wikipedia.org/wiki/Legal)[**cause of action**](https://en.m.wikipedia.org/wiki/Cause_of_action)**and a type of**[**civil wrong**](https://en.m.wikipedia.org/wiki/Civil_wrong)**, in which a**[**binding agreement**](https://en.m.wikipedia.org/wiki/Binding_agreement)**or bargained-for exchange is not honored by one or more of the parties to the contract by non-performance or interference with the other party's performance. Breach occurs when a party to a contract fails to fulfill its obligation(s), whether partially or wholly, as described in the contract, or communicates an intent to fail the obligation or otherwise appears not to be able to perform its obligation under the contract. Where there is breach of contract, the resulting damages will have to be paid by the party breaching the contract to the aggrieved party.**

1. **If a contract is rescinded, parties are legally allowed to undo the work unless doing so would directly charge the other party at that exact time.**
2. **It is important to bear in mind that contract law is not the same from country to country. Each country has its own independent, free standing law of contract. Therefore, it makes sense to examine the laws of the country to which the contract is governed before deciding how the law of contract (of that country) applies to any particular contractual relationship.**
3. **To determine whether or not a contract has been breached, a judge needs to examine the contract. To do this, they must examine: the existence of a contract, the requirements of the contract, and if any modifications were made to the contract. Only after this can a judge make a ruling on the existence and classifications of a breach. Additionally, for the contract to be breached and the judge to deem it worth of a breach, the plaintiff must prove that there was a breach in the first place, and that the plaintiff held up his side of the contract by completing everything required of him. Additionally, the plaintiff must notify the defendant of the breach prior to fling the lawsuit.**

### ***Revelations Perfume and Cosmetics Inc. v. Prince Rogers Nelson***

***In 2008, the Revelations Perfume and Cosmetics company sued the famous musician “Prince” and his music label, seeking $100,000 in damages for reneging on an agreement to help market their perfumes. The flamboyant pop star had promised to personally promote the company’s new perfume named after his 2006 album “3121,” and to allow his name and likeness to be used in the perfume’s packaging. Prince then refused to grant interviews related to the project, and refused to provide a current photograph for a press release.***

***In its breach of contract complaint, Revelations asked the court to award more than $3 million in lost profits, as well as***[***punitive damages***](https://legaldictionary.net/punitive-damages/)***. The judge found no evidence, however, that the pop star acted with malicious intent, and ordered him to pay nearly $4 million for the cosmetics company’s out-of-pocket expenses. Revelations’ request for punitive and loss-of-profits damages was denied.***

### ***Macy’s v. Martha Stewart Living***

***Macy’s department stores filed a breach of contract complaint against Martha Stewart Living Omnimedia for making an agreement with J.C. Penney for the creation of Martha Steward retail stores within their retain stores beginning February 2013. Prior to the deal, J.C. Penney had purchased a minority stake in Steward’s company for $38.5 million. The mini-retail stores were to carry Martha Stewart home goods, however Macy’s argued they had been granted an exclusive right to make and sell certain Martha Steward Living products in an agreement signed in 2006.***

***Macy’s asked the court to grand a***[***preliminary injunction***](https://legaldictionary.net/preliminary-injunction/)***to stop Steward from breaching the contract while the court considered the matter. Twelve years later, in June 2014, a New York judge ruled that J.C. Penney had indeed stepped over Macy’s contract with the domestic diva in its attempt to sell products bearing her name. While the J.C. Penney contract has been nullified, monetary breach of contract damages were not immediately decided, and may be limited to the legal fees and costs of the lawsuit, as the judge decided the case did not warrant punitive damages***

**(2)**

**(I) Award of damages:**

**Money damages refer to the monetary payments which a breaching party has to make for**[**violating the terms of contract**](https://www.legalmatch.com/law-library/article/contract-consideration.html)**. The type of breach determines the extent of the damages. If it is a total breach, then the plaintiff can recover the sum or value which the plaintiff would have received had the contract been fully performed by the defendant and this includes lost profits.**

**However, if it is a partial breach, the plaintiff can recover a sum which equals the amount necessary to hire someone else to complete that part of the contract. However, in some cases of partial breach, the cost of completion can be quite expensive and the portion of the contract which was unperformed may be small.**

**In these cases, a court may only award damages which are equal to the difference between the value of the contract as performed and the full value of the contract which was originally agreed to by the parties.**

**(II) Restitution:**

**Restitution is a remedy which is used to restore the injured party to the position occupied before the contract. Under the**[**principle of restitution**](https://www.legalmatch.com/law-library/article/restitution-lawyers.html)**, the defendant is supposed to give back any money or property received from the plaintiff under the contract and restitution is not used to compensate the plaintiff for lost profits or other earnings because of the breach of contract.**

**Restitution is typically used in cases where the contract is voided by the court because the defendant lacked the competence or capacity necessary to enter into a contract.**

**(III) Rescission:**

**Sometimes, the contractual duties of both parties may be terminated by the court and when this happens,**[**it is called rescission**](https://www.legalmatch.com/law-library/article/contract-rescission-lawyers.html)**. This remedy is used in certain cases such as when the parties enter into a contract because of mistake, fraud, undue influence or duress and the only way to do justice is to terminate the contract.**

**(IV) Reformation:**

**However, sometimes the remedy of reformation may be used which is when a court reforms or changes a contract to correct any inequities. In these cases, instead of setting aside the entire contract, the terms of the contract may be rewritten to do justice.**

**(V) Specific performance:**

**Specific performance is only ordered when money damages are an insufficient remedy for the party’s failure to perform a contract. Thus, specific performance orders are usually for unique**[**items such as real estate**](https://www.legalmatch.com/law-library/article/real-estate-property-and-housing.html)**, antiques, heirlooms and artworks.**

**Even though real estate can be a unique item, land sale transactions are frequently compensated through money damages. Physical tasks such as a massage or common home renovations are rarely ordered as it would be too difficult for the court to oversee and can be easily compensated through money damages**