

3063 IMPOSSIBILITY: PARTIAL

If a party cannot do part of what the party has promised to do because of circumstances beyond his or her control and not within his or her ability to foresee, but the rest of the performance can be made without material difficulty or disadvantage, then the duty of the promisor to perform may be excused only to the extent of the partial impossibility.

COMMENT

This instruction and comment were approved by the Committee in 1975. Editorial changes were made in 1993 to address gender references in the instruction. No substantive changes were made to the instruction.

Hess Bros., Inc. v. Great Northern Pail Co., 175 Wis. 465, 185 N.W. 542 (1921); Appleton Elec. Co. v. Rogers, 200 Wis. 331, 228 N.W. 505 (1930); Restatement, Contracts § 463.