

3735 DAMAGES: LOSS OF EXPECTATION

The measure of damages for a breach of contract is the amount which will compensate the plaintiff for the loss suffered because of the breach. A party who is injured should, as far as it is possible to do by monetary award, be placed in the position in which he or she would have been had the contract been performed. The fundamental basis for an award of damages for breach of contract is just compensation for losses necessarily flowing from the breach. A party whose contract has been breached is not entitled to be placed in a better position because of the breach than the party would have been had the contract been performed. The injured party is entitled to the benefit of his or her agreement, which is the net gain he or she would have realized from the contract but for the failure of the other party to perform.

COMMENT

This instruction and comment were originally published in their present form in 1975. Editorial changes were made in 1994 to address gender references in the instruction. No substantive changes were made to the instruction.

Schubert v. Midwest Broadcasting Co., 1 Wis.2d 497, 85 N.W.2d 449 (1957); Dehnart v. Waukesha Brewing Co., 21 Wis.2d 583, 124 N.W.2d 664 (1963); 55 C.J.S., Damages, § 74.