CONTRACTS
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REMEDIES - SUMMARY

Damages: When a legally enforceable promise is breached, the court typically awards money damages to compensate non-breaching party.
Exception: Specific performance is available for unique goods or relations (Copylease v. Memorex). (2-709, 2-716)

Basic Rule: Expectation measure of damages = the positive difference between the foreseeable (Hadley) position of the non-breaching party as a result of the breach (assuming the party has reasonably mitigated) and the position the non-breaching party can prove with reasonable certainty s/he would have been in if the promise had been kept.

Reasonable mitigation: employment of same kind and quality (Parker); cost of completion not awarded if it would yield waste or would be grossly disproportionate to value as promised (building contracts, e.g. Peevyhouse, Plante).

If damages can't be proven with reasonable certainty, reliance damages may be available (Security Stove).

Losing contracts: recovery can be reduced by as much as defendant can prove that the promisee would have lost had the contract been performed.

Clauses in contracts setting liquidated damages are not voided by courts as penalty clauses if losses are difficult to calculate and the damages set in the contract are reasonable estimate at time of contracting of the harm that would be caused by the breach (or, under UCC 2-718 and Restatement 2nd 356, in light of the actual harm caused).

Restitution damages = reasonable value of benefit conferred on defendant. Contract is a bar to seeking restitution damages if plaintiff has fully performed (Oliver).

UCC Remedy Formulas
Seller Breaches: ((Cover or Market price) - Kontract price) + (Incidental and Consequential damages) - Expenses Saved
UCC: perfect tender rule with seller right to cure

Buyer breaches: Kontract price - (resale or market price) + incidental damages - expenses saved.
lost profits available if seller is a loss volume seller (2-708(2))