|  |
| --- |
| *Indicate whether the statement is true or false.* |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1. A *remedy* is the relief provided to an innocent contracting party when the other party breaches the contract.​

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 2. Usually, a court will not award an equitable remedy unless the remedy at law is inadequate.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 3. A breach of contract entitles the nonbreaching party to sue for monetary damages.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 4. The most common remedies available to a nonbreaching party include damages, rescission and restitution, and specific performance.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 5. Expenses that are caused directly by a breach of a contract are known as *primary damages*.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 6. Compensatory damages compensate a party injured by a breach of contract by punishing the party that breached the contract.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 7. The amount of compensatory damages is the value of a breaching party’s promised performance.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 8. The injury suffered by a nonbreaching party due to the breach of a con-tract may be remedied by payment of *coincidental damages*.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 9. The measure of compensatory damages often varies by type of contract.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 10. Ordinarily, the remedy for a seller’s breach of a contract for a sale of real estate is damages.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 11. An award of damages for a breach of contract can elevate the nonbreaching party to a better position than he or she would have been in if the contract had not been breached.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 12. A party seeking to recover compensatory damages can also recover incidental damages.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 13. In a contract for a sale of goods, the usual measure of compensatory damages is the difference between the retail price and the wholesale price.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 14. Damages that compensate the nonbreaching party for the loss of a bargain are known as *consecutive damages*.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 15. Liquidated damages provisions usually are enforceable.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 16. Consequential damages are awarded for damage caused by special circumstances beyond a contract itself.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 17. Consequential damages are foreseeable damages that arise from a party’s breach of a contract.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 18. In most situations, when a breach of contract occurs, the innocent injured party is held to a duty to mitigate the damages.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 19. Under the doctrine of mitigation of damages, the duty owed depends on the nature of the contract.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 20. Punitive damages are generally *not* awarded in an action for breach of contract.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 21. Nominal damages are awarded for the breach of a contract to nominate someone or something to a higher office, position, or category.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 22. Nominal damages are designed to punish a wrongdoer and set an example to deter similar conduct in the future.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 23. A liquidated damages provision specifies that a certain amount is to be paid on a breach of contract when the nonbreaching party elects to receive cash.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 24. Rescission is an equitable remedy used when the parties have imperfectly expressed their agreement in writing.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 25. The failure of one party to perform a contract entitles the other party to rescind it.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 26. Restitution involves one party’s recapture of a benefit through which another party has been unjustly enriched.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 27. Restitution is limited to rescission cases.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 28. Ordinarily, the remedy for a seller’s breach of a contract for a sale of real estate is specific performance.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 29. Specific performance will not be granted unless the party’s legal remedy is inadequate.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 30. Reformation is an equitable remedy that allows a court to rewrite a contract to suit itself.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 31. Courts order reformation most often when fraud or mutual mistake is present.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 32. A party seeking to recover in quasi contract must show that the other party has been unjustly enriched.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 33. A party seeking to recover in quasi contract must show that he or she acted as a volunteer in conferring a benefit on another party.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- | --- | --- | --- | --- | --- | --- |
| 34. A contract may include a clause stating that damages will be limited to a maximum amount.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 35. Whether a contract’s limitation-of-liability clause will be enforced depends on the type of breach that is excused by the provision.

|  |  |  |
| --- | --- | --- |
|   | a.  | True |
|   | b.  | False |

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| --- |
| *Indicate the answer choice that best completes the statement or answers the question.* |

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| 36. ​Global Enterprise Corporation enters into a contract with HealthCare Insurance Company to obtain insurance for Global employees. If HealthCare breaches the contract and Global is awarded compensatory damages, the purpose would be to

|  |  |  |
| --- | --- | --- |
|   | a.  | ​establish, as a matter of principle, that HealthCare acted wrongfully. |
|   | b.  | ​provideGlobal with funds for a foreseeable loss beyond the contract. |
|   | c.  | ​provideGlobal with funds for its loss of the bargain. |
|   | d.  | ​punishHealthCare and deter others from similar acts. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 37. Ready Repair Service enters into a contract to fix washers and dryers in Scrub n’ Dry Company’s coin-operated laundries. If Ready Repair breaches the contract, Scrub n’ Dry can

|  |  |  |
| --- | --- | --- |
|   | a.  | ​do nothing but make a deal with a different service provider. |
|   | b.  | do nothing but temporarily suspend operations and wait. |
|   | c.  | file a criminal complaint against  Ready Repair. |
|   | d.  | sue Ready Repair for damages. |

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| 38. Nogales Ceramics pays Omar $15,000 to propose an online marketing campaign. Two days later, Omar tells Nogales that he has accepted a job in Silicon Valley and cannot plan the campaign. As compensatory damages, Nogales can recover

|  |  |  |
| --- | --- | --- |
|   | a.  | $150,000. |
|   | b.  | $15,000. |
|   | c.  | $1,500. |
|   | d.  | $0. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 39. Sati contracts to work exclusively for Thermal Imaging Company during July for $5,000. On June 30, Thermal Imaging cancels the contract. Sati finds a similar job for the month of July but earns only $3,000. Sati files a suit against Thermal Imaging. As compensatory damages, Sati can recover

|  |  |  |
| --- | --- | --- |
|   | a.  | $3,000. |
|   | b.  | $2,000. |
|   | c.  | $1,000. |
|   | d.  | $0. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 40. Rashi contracts to work for Social Data Analysis Corporation dur-ing June for $4,500. On May 31, Social Data cancels the contract. Rashi declines a job of a different type and rank with Tech Collection, Inc., which would have paid $3,500. Rashi files a suit against Social Data. As compensatory damages, Rashi can recover

|  |  |  |
| --- | --- | --- |
|   | a.  | $4,500. |
|   | b.  | $4,000. |
|   | c.  | $500. |
|   | d.  | $0. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 41. Oxley contracts to buy a pizza oven from Restaurant Supplies Warehouse (RSW) for $2,500, but RSW fails to deliver. Oxley buys the appliance else-where for $3,500. Oxley’s measure of damages is

|  |  |  |
| --- | --- | --- |
|   | a.  | $1,000. |
|   | b.  | $1,000 plus incidental damages. |
|   | c.  | incidental damages only. |
|   | d.  | $0. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 42. Builders, Inc., agrees to construct an office building for Champion Fitness Clubs, Inc. The project proceeds according to plan, but before it is done, Champion tells Buildersto quit. Buildersmay recover

|  |  |  |
| --- | --- | --- |
|   | a.  | the contract price less costs of materials and labor. |
|   | b.  | the contract price. |
|   | c.  | the costs needed to complete construction.​ |
|   | d.  | profits plus the costs incurred up to the time of the breach. |

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| --- |
| Ambrose enters into a contract to buy 350 acres from Belle Vista Farms to cultivate grapes and open a winery.​ |

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 43. Refer to Fact Pattern 17-1. If Ambrose breaches the contract, Belle Vista’s remedy would most likely be

|  |  |  |
| --- | --- | --- |
|   | a.  | the amount that Ambrose expected to invest in the project. |
|   | b.  | a percentage of Ambrose’s unrealized profit. |
|   | c.  | the difference between the land’s contract and market prices. |
|   | d.  | specific performance. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 44. Refer to Fact Pattern 17-1. If Belle Vista breaches the contract, Ambrose’s remedy would most likely be

|  |  |  |
| --- | --- | --- |
|   | a.  | the amount that Ambrose expected to invest in the project. |
|   | b.  | a percentage of Ambrose’s unrealized profit. |
|   | c.  | the difference between the land’s contract and market prices. |
|   | d.  | specific performance. |

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| 45. Handcrafts & Hobbies Store agrees to hire Iliana for one year at a salary of $600 per week. When Handcrafts & Hobbies cancels the contract, Iliana spends $150 to obtain a similar job that pays $450 per week for a year. Iliana is entitled to recover

|  |  |  |
| --- | --- | --- |
|   | a.  | the amount of the wages that Handcrafts & Hobbies promised only. |
|   | b.  | the difference between the wages at the two jobs only. |
|   | c.  | the difference between the wages at the two jobs plus $150. |
|   | d.  | ​$150 only. |

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| 46. Porches & Verandas, Inc., agrees to build a screen porch for Quinn, but fails to complete the job. Quinnhires Ramadas, Inc., to finish the project. Quinn may recover from Porches & Verandas

|  |  |  |
| --- | --- | --- |
|   | a.  | the contract price less costs of materials and labor. |
|   | b.  | the contract price. |
|   | c.  | the costs needed to complete construction. |
|   | d.  | profits plus the costs incurred up to the time of the breach. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 47. Meatpackers, Inc., enters into a contract with Nemiah’s Ranch for the delivery of a certain number of beef cattle on a set schedule. Nemiah’s delays the first delivery for five days, aware that Meatpackers loses a certain percentage of profit each day. An award to Meatpackersof consequential damages would

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| --- | --- | --- |
|   | a.  | establish, as a matter of principle, that Nemiah’s acted wrongfully. |
|   | b.  | provide Meatpackerswith funds for a foreseeable loss beyond the contract. |
|   | c.  | provide Meatpackerswith funds for its loss of the bargain. |
|   | d.  | punish Nemiah’s and deter other suppliers from similar acts. |

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| 48. Tile & Grout (T&G) contracts to resurface the insides of the pools at WaterWorld Park. T&G knows that without the resurfacing, WaterWorld will have to delay its seasonal opening. T&G does not perform as promised. As consequential damages, WaterWorld can recover

|  |  |  |
| --- | --- | --- |
|   | a.  | the cost of new pools. |
|   | b.  | the difference between T&G’s price and the eventual cost of resurfacing. |
|   | c.  | the loss of profit from the delayed opening. |
|   | d.  | nothing. |

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| 49. Cowtown Creamery, Inc., needs a certain part for its pasteurizing equipment to continue its operations and orders one for $3,000 from Dairy Supplies Company. Cowtown tells Dairy Supplies that it must receive the part by Tuesday or it will lose $10,000. Dairy Supplies ships the part late. Cowtown can recover

|  |  |  |
| --- | --- | --- |
|   | a.  | $13,000. |
|   | b.  | $10,000. |
|   | c.  | $3,000. |
|   | d.  | $0. |

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| 50. Bread & Bagels Bakery (B&B) enters into a contract with Cineplex for discounted tickets for B&B’s employees. Cineplex breaches the contract and B&B enters into a contract with DigiMovies for the same service at a lower price. B&B might be awarded nominal damages to

|  |  |  |
| --- | --- | --- |
|   | a.  | establish, as a matter of principle, that Cineplex acted wrongfully. |
|   | b.  | provide B&B with funds for a foreseeable loss beyond the contract. |
|   | c.  | provide B&B with funds for its loss of the bargain. |
|   | d.  | punish Cineplex and set an example to deter others from similar acts. |

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| 51. Dry Gulch Farms hires Elliot to repair its irrigation system on site on a certain date for $2,500, but Elliot does not show up as agreed. Dry Gulch hires Fernando to do the job for $2,000. Dry Gulch may recover from Elliot

|  |  |  |
| --- | --- | --- |
|   | a.  | nothing. |
|   | b.  | compensatory damages. |
|   | c.  | consequential damages. |
|   | d.  | nominal damages. |

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| 52. Isaac holds one ton of perishable fruit in storage for Juice Smoothies Corpo-ration. Juice Smoothies does not pay for the storage. Isaac sells the fruit to Kayo Beverage Company. This sale represents

|  |  |  |
| --- | --- | --- |
|   | a.  | a breach of contract. |
|   | b.  | a mitigation of damages. |
|   | c.  | liquidated damages. |
|   | d.  | a quasi contract. |

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| 53. Rig Heli-Pads, Inc., enters into a contract to employ Scott as an on-site project manager for two years. If Rig breaches the contract, Scott has a duty to

|  |  |  |
| --- | --- | --- |
|   | a.  | do nothing. |
|   | b.  | reduce the damages that Scott might otherwise suffer. |
|   | c.  | rescind the contract with Rig. |
|   | d.  | punish Rig and set an example to deter others from similar acts. |

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| 54. Equine World enters into a contract with FabuloSales to provide Equine World with a plan to repurpose its marketing strategy. If FabuloSales breaches the contract, Equine World has a duty to

|  |  |  |
| --- | --- | --- |
|   | a.  | reduce the damages that Equine World might otherwise suffer. |
|   | b.  | reduce the loss that FabuloSales might otherwise suffer. |
|   | c.  | punish FabuloSales and deter others from similar acts. |
|   | d.  | take no action. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 55. Mother & Daughter Jewelers breaches its lease with Longview Mall and vacates the premises six months before the end of the term. In some states, Longview would have to

|  |  |  |
| --- | --- | --- |
|   | a.  | avoid reletting the premises to recover damages. |
|   | b.  | use reasonable means to find a new tenant to mitigate dam-ages. |
|   | c.  | relet the premises to recover any damages. |
|   | d.  | sell the premises to recover any damages. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 56. Copper Conduit, Inc., and Dependable Electric Company sign an agree-ment that provides for the payment of “$1,000 by whichever party commits a material breach of the contract that creates damages difficult to esti-mate but approximately $1,000.” This is

|  |  |  |
| --- | --- | --- |
|   | a.  | a liquidated damages clause. |
|   | b.  | a mitigation-of-damages clause. |
|   | c.  | a waiver-of-breach clause. |
|   | d.  | a penalty clause. |

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| 57. Renew Turf, Inc., enters into a contract with Sports Park to provide surface material for Sports Park’s baseball fields by October 1 for a series to begin October 5. The contract specifies an amount to be paid if the contract is breached. This is a liquidated damages clause if the amount is

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|   | a.  | meant to pay for additional liquid sealant in the event of damage. |
|   | b.  | a reasonable estimate of the loss on a breach. |
|   | c.  | designed to penalize the breaching party. |
|   | d.  | intended to quickly provide cash to the nonbreaching party. |

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| 58. Metro Facilities, Inc., contracts to sell a parking lot to Nouveau Property Company. The contract provides that if Metro does not close the deal by September 15, it must pay Nouveau one-half of the contract price. This provision is *not* enforceable because it is

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|   | a.  | a liquidated damages clause. |
|   | b.  | an exculpatory clause. |
|   | c.  | a limitation-of-liability clause. |
|   | d.  | a penalty clause. |

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| 59. Guido and Hal want to rescind their contract under which Guido sold Hal a mountain bike for $100. To rescind the contract

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|   | a.  | Guido must return the $100 and Hal must return the bike. |
|   | b.  | Guido must return the $100 only. |
|   | c.  | Hal must return the bike only. |
|   | d.  | the parties can keep the “benefits” of their bargain. |

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| 60. Excavate n’ Fill, Inc., enters into a contract with Fred to fill and landscape an abandoned quarry on Fred’s land. Fred advances Excavate n’ Fill10 percent of its cost. The parties rescind the contract. Excavate n’ Fill’s refund of the payment is

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|   | a.  | a penalty. |
|   | b.  | liquidated damages. |
|   | c.  | restitution. |
|   | d.  | reformation. |

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| 61. Isabel orally agrees to buy a unique collection of nineteenth-century cowboy memorabilia for $10,000 from Jessie and sends $2,500 as a down payment. When Isabel pays the rest of the price, Jessie refuses to ship the collection. Isabel should seek

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|   | a.  | damages. |
|   | b.  | restitution. |
|   | c.  | rescission. |
|   | d.  | specific performance. |

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| 62. Fortuna enters into a contract to buy fifty acres from Garrison to expand Fortuna’s farm. Garrison breaches the contract. Fortuna’s normal remedy is

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|   | a.  | damages. |
|   | b.  | reformation. |
|   | c.  | rescission. |
|   | d.  | specific performance. |

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| 63. Leif contracts to sell his Micro Brewery & Pub to Naomi on April 1. On March 15, Leif tells Naomi that he will not go through with the deal. Naomi can recover

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|   | a.  | the cost of any other property that Naomi would find suitable. |
|   | b.  | the cost of a similar, nearby brewery and pub. |
|   | c.  | the Micro Brewery & Pub. |
|   | d.  | nothing. |

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| 64. Dino hires Eve to perform at Dino’s Club, but Eve later breaches the agreement to accept a higher-paying job at First Star Arena. Dino files a suit against Eve. The court will most likely

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|   | a.  | award damages to Dino. |
|   | b.  | cancel Dino and Eve’s contract. |
|   | c.  | order Eve to perform the contract. |
|   | d.  | rewrite Dino and Eve’s contract. |

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| 65. RidgeviewMining Inc. agrees to deliver ten tons of coal to Static Energy Corporation. The agreement states that delivery is to be within “9” days, although the parties intend “90” days. Ridgeview cannot convince Static to amend the contract. Ridgeview should seek

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|   | a.  | damages. |
|   | b.  | reformation. |
|   | c.  | rescission. |
|   | d.  | specific performance. |

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| 66. Rikki agrees to sell her Sunrise Breakfast Café to Tia. As part of the deal, Rikki signs a covenant not to open a competing business within a hundred-mile radius for ten years. If this covenant is later determined to be unreasonable, the appropriate remedy

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|   | a.  | damages. |
|   | b.  | reformation. |
|   | c.  | rescission. |
|   | d.  | specific performance. |

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| 67. A contract for a sale of land from Bayside Properties, Inc., to City Development Corporation contains an erroneous legal description. The most appropriate remedy for these parties is

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|   | a.  | a quasi contract. |
|   | b.  | reformation. |
|   | c.  | rescission. |
|   | d.  | specific performance. |

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| 68. Rough Hewn Lumber Company orally contracts with Joe for the purchase of five acres of Joe’s timberland. Joe makes the transfer but Rough Hewn does not pay the price. The lack of a written contract could bar enforcement of this deal. If so, Joe could most likely recover on a theory of

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|   | a.  | rescission. |
|   | b.  | restitution. |
|   | c.  | liquidated damages. |
|   | d.  | quasi contract. |

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| 69. River Vista Inc. enters into a contract with Stable Realty Management to manage and maintain River Vista’s commercial real estate. Their contract provides that neither party can recover damages for a non-fraudulent or unintentional breach. This is

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|   | a.  | a limitation-of-liability clause. |
|   | b.  | an exculpatory clause. |
|   | c.  | a liquidated damages clause. |
|   | d.  | a quasi contract. |

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| 70. A contract between Recreational Games & Rides, Inc., and Summer Fair Corporation includes a provision excluding liability as a result of fraud. This provision is

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|   | a.  | enforceable because the parties are protected from liability. |
|   | b.  | enforceable because the parties consented to it. |
|   | c.  | enforceable if the parties have equal bargaining power. |
|   | d.  | not enforceable. |

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| 71. National Drilling Company ships its only pump to American Hydraulics Corporation, the manufacturer, for repair. National hires Overland Transport, Inc., to take the pump to American Hydraulics and to return it to National as soon as the repair is complete. National is forced to sus-pend operations without a pump, but Overland does not know this. National expects to be without the pump for five days and to lose profits of $5,000. When the pump is not returned by the end of the fifth day, National rents a pump at a cost of $100 per day. Overland delays five more days before returning the pump. National files a suit against Overland, asking for compensatory, consequential, and punitive damages. Will National recover?​ |

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| 72. Lunch Trucks, Inc., contracts to deliver and serve Meals Catering Service’s products to its clients for $5,000 per event, payable in ad-vance. Meals Catering pays the money, but Lunch Trucks fails to perform. Can Meals Catering rescind the contract? Can Meals Catering also ob-tain restitution? What does it mean to “rescind” a contract? How is a contract rescinded? What is restitution? How is restitution accom-plished? Explain. |

**Answer Key**

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| 1. True |

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| 2. True |

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| 3. True |

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| 4. True |

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| 5. False |

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| 6. False |

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| 7. False |

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| 8. False |

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| 9. True |

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| 10. True |

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| 11. True |

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| 12. True |

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| 13. True |

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| 14. False |

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| 15. True |

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| 16. True |

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| 22. False |

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| 23. False |

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| 33. False |

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| 37. d |

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| 38. b |

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| 39. b |

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| 41. b |

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| 42. c |

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| 43. c |

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| 46. c |

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| 47. d |

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| 48. c |

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| 49. b |

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| 50. a |

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| 51. d |

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| 52. b |

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| 53. b |

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| 56. a |

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| 68. d |

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| 69. a |

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| 70. d |

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| 71. Yes and no. National will succeed in recovering damages, but not all of the damages that it seeks. Overland’s failure to perform promptly is a breach of contract for which National can recover dam-ages. Because of Overland’s late delivery of the pump, National is enti-tled to re-cover the cost of renting the pump for the five days that Overland delayed. Expenses that are caused directly by a breach of con-tract—such as the cost to rent the replacement pump after Overland breached the con-tract—are recoverable as compensatory damages. These expenses were foreseeable. Consequential damages—damages caused by special cir-cumstances beyond the contract—are recoverable only if the breaching party knew or should have known at the time of contracting of their possi-bility.            In this problem, National’s shutdown of its operations is a special circumstance, but Overland did not know of these circumstances so National’s consequent loss of profits is not recov-erable. Also, National can-not recover punitive damages, which are not usually recoverable in breach of contract suits. Punitive damages are in-tended to punish wrongdoing. The purpose of damages in a breach of contract suit is to place the nonbreaching party in the position he or she would have occu-pied if the contract had been performed, not to punish the breaching party.​ |

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| 72. Yes, Meals Catering can rescind the contract and obtain restitu-tion.A breach of contract by a failure to perform entitles the nonbreach-ing party to rescind, or cancel, the contract, and the parties must make resti-tution, which is the returning of whatever benefit they conferred on each other. These remedies are particularly available when the breach-ing party would otherwise be unjustly enriched, as in this question. Rescission is an action to cancel a contract—to re-turn the parties to the positions they were in before the transaction. It is also available in cases involving fraud, mistake, duress, or failure of consideration. To rescind, a nonbreaching party must give prompt no-tice to the breaching party. Both parties must then make restitution to each other by returning what-ever was conveyed in execution of their contract. If the goods or property conveyed can be returned, they must be. If the actual items cannot be re-turned, an equivalent amount in money must be paid. |