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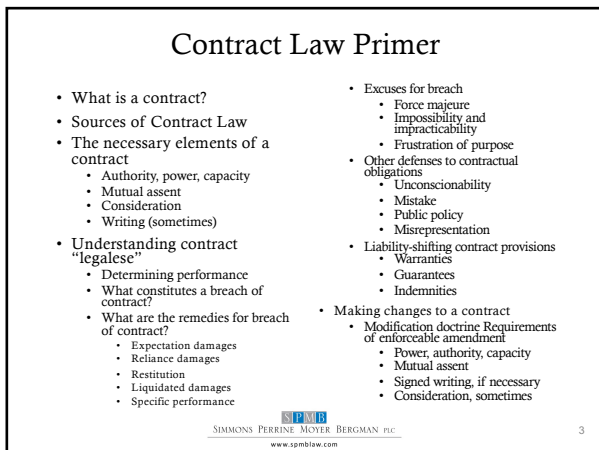
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## Sources of Contract Law

- Statutory law
  - Uniform Commercial Code ("UCC")
  - Iowa Code sections 554.2101 – 554.2725
- Common law
  - Judge-made law
  - Restatement (Second) of Contracts



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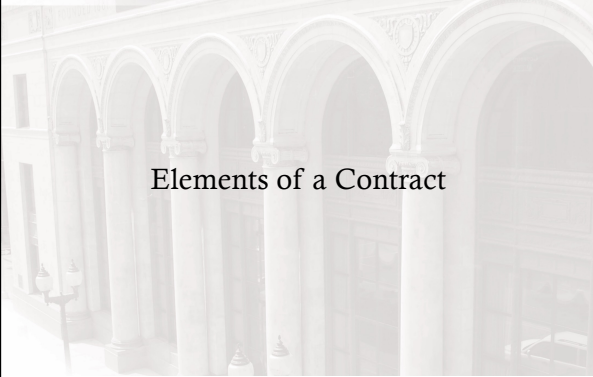
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## Elements of a Contract



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## Elements of a Contract

- The person or entity entering into the agreement must have:
  - Capacity
  - Authority
  - Power



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Mutual Assent

- The objective test of assent
- Misunderstanding
- *Lucy v. Zehmer* (1954)



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Mutual Assent

- Offer
- Termination of offer

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Mutual Assent



Acceptance



Silence as acceptance



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Elements of a Contract

- Consideration
  - Bargained-for exchange

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Elements of a Contract

- Potential reasons to enforce a contract absent consideration:
  - Formality
  - Reliance
  - Benefit

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Elements of a Contract

- Limits on Promissory Obligations
  - Adequacy of values exchanged
  - Mutuality
  - Pre-Existing Duty

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# Elements of a Contract

- Writing (sometimes)
  - The Statute of Frauds
  - Parol evidence rule

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# Understanding Contract Legalese

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# Understanding Contract "Legalese"

Determining performance

The duty of good faith

Substantial performance

Conditions of performance

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## Understanding Contract “Legalese”



WHAT CONSTITUTES  
BREACH OF CONTRACT?



ANTICIPATORY  
REPUDIATION

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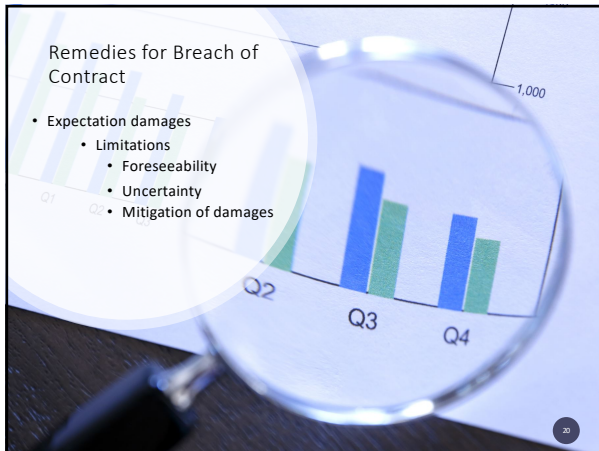
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### Remedies for Breach of Contract

- Expectation damages
  - Limitations
    - Foreseeability
    - Uncertainty
  - Mitigation of damages



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## Expectation Damages

- Hawkins v. McGee (1929)



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# Remedies for Breach of Contract

- Limitations on expectation damages
  - Foreseeability
  - Uncertainty
  - Mitigation of damages

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# Remedies for Breach of Contract

- Hadley v. Baxendale (1854)

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# Remedies for Breach of Contract

- Reliance damages
- Reliance as a Basis for Liability v. Reliance as a Damage Measure

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Remedies for Breach of Contract

- Restitution
  - Restitution can be in favor of the breaching party or the non-breaching party

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Remedies for Breach of Contract

- Liquidated damages
  - Reasonableness test
  - Uncertainty test



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Remedies for Breach of Contract

- Specific performance
  - Generally the exception
  - Personal employment contracts = no affirmative injunctions in these cases

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## Excuses for Breach of Contract

Force majeure

Impossibility and impracticability

Frustration of purpose

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## Other Defenses to Contractual Obligations

- Unconscionability
- Mistake
  - Unilateral mistake
  - Mutual mistake

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## Other Defenses to Contractual Obligations

- Public policy
- Misrepresentation

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# Liability-Shifting Contract Provisions



Warranties



Guarantees



Indemnities

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# Making Changes to a Contract

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# Making Changes to a Contract

- Modification doctrine (pre-existing duty)
- Requirements of an enforceable amendment
  - Power, authority, capacity
  - Mutual assent
  - Signed writing, if necessary
  - Consideration (sometimes)

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*Questions?*



*Michael J. Kaufmann*  
(319) 896-4121  
mkaufmann@spmblaw.com

  
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www.spmblaw.com

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www.spmblaw.com

115 3rd Street SE, Suite 1200 | Cedar Rapids, IA 52401 | 319.366.7641  
1150 5th Street, Suite 170 | Coralville, IA 52241 | 319.354.1019

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