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PAROL EVIDENCE RULE

EXCLUDES:

EXCEPTIONS TO THE PAROL EVIDENCE RULE

Purpose 1 (Identify Terms)

PURPOSE TWO (CONSTRUE MEANING)

COLLATERAL CONTRACTS

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PAST DEALINGS BETWEEN PARTIES

CUSTOM OR TRADE USAGE

BUSINESS EFFICACY

IMPLIED TERMS

FORMAL CONTRACTS
INFORMAL CONTRACTS

TERMS IMPLIED BY LAW

COMMON LAW

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INTERPRETATION/CONSTUCTION/CLASSIFICATION

PART ONE: INTERPRETING THE MEANING OF THE WORDS IN EACH TERM

GENERAL GUIDELINES

THE FACTUAL MATRIX

INCONSISTENCY

PART TWO: LEGAL SIGNIFICANCE

CLASSIFICATION OF TERMS

CLASSIFICATION OF PROMISSORY TERMS

DISTINGUISHING CONDITIONS FROM WARRANTIES

INTERMEDIATE OR INNOMINATE TERMS

SIGNIFICANCE OF CLASSIFICATION

OTHER CLASSIFICATION SYSTEMS

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EXCLUSION CLAUSES

TRADITIONAL APPROACH

CONTRA PROFERENTEM RULE (CONTRA PROFERENS)

FOUR CORNERS RULE

DEVIATION RULE

NEGLIGENCE RULE

MODERN APPROACH

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MISREPRSENTATION

REPRESENTATION
MISREPRESENTATION

Types of misrepresentation

ELEMENTS OF MISREPRESENTATION:

ELEMENT 1: A REPRESENTATION MUST BE MADE

EXCEPTIONS TO THE GENERAL RULE ABOUT SILENCE

ELEMENT 2: REPRESENTATION IS A STATEMENT OF FACT

STATEMENT OF PAST/PRESENT FACT NOT FUTURE INTENTION

STATEMENT OF FACT NOT OPINION

STATEMENT OF FACT NOT LAW

ELEMENT 3: REPRESENTATION MUST BE FALSE

ELEMENT 4: REPRESENTATION WAS MADE TO INDUCE THE CONTRACT

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EXCEPTIONS:

ELEMENT 5: THE REPRESENTATION DOES INDUCE THE CONTRACT

EFFECT OF FINDING MISREPRESENTATION (REMEDIES)

FRAUDULENT MISREPRESENTATION INNOCENT MISREPRESENTATION **NEGLIGENT MISREPRESENTATION**

STATUTORY INTERVENTION

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COMMON MISTAKE

COMMON MISTAKE AT COMMON LAW

REMEDY AT COMMON LAW

COMMON MISTAKE IN EQUITY

SETTING ASIDE THE CONTRACT REFUSE SPECIFIC PERFORMANCE

RECTIFICATION

MUTUAL MISTAKE

MUTUAL MISTAKE AT COMMON LAW

MUTUAL MISTAKE IN EQUITY

UNILATERAL MISTAKE

UNILATERAL MISTAKE AT COMMON LAW

MISTAKEN IDENTITY

MISTAKE AS TO THE NATURE OF THE DOCUMENT SIGNED

UNILATERAL MISTAKE IN EQUITY DEFENCE TO SPECIFIC PERFORMANCE

SETTING ASIDE THE CONTRACT

RECTIFICATION

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FIFMENTS:

DURESS TO THE PERSON DURESS TO GOODS

ECONOMIC DURESS CAUSATION

THIRD PARTY ADVANTAGE

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UNDUE INFLUENCE

PRESUMED UNDUE INFLUENCE

FIDUCIARY RELATIONSHIPS

SPECIAL RELATIONSHIPS ATTRACTING THE PRESUMPTION

ACTUAL UNDUE INFLUENCE

REBUTTING UNDUE INFLUENCE

EFFECT OF FINDING UNDUE INFLUENCE

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UNOCONSCIONABILITY ERROR! BOOKMARK NOT DEFINED.

THIRD PARTY LIABILITY

REBUTTING A PRESUMPTION OF UNCONSCIONABILITY

WIVES SPECIAL EQUITY

REMEDY FOR UNCONSCIONABILITY

STATUTORY INTERVENTION

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REMEDIES FOR VITATING FACTORS	ERROR! BOOKMARK NOT DEFINED.
RESCISSION	ERROR! BOOKMARK NOT DEFINED.
BARS ON RESCINDING THE CONTRACT	ERROR! BOOKMARK NOT DEFINED.
1. Affirmation	ERROR! BOOKMARK NOT DEFINED.
2. Where restitutio in integrum is impossible.	ERROR! BOOKMARK NOT DEFINED.
3. Intervening Third Party Rights	ERROR! BOOKMARK NOT DEFINED.
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MISREPRESENTATION: TORTIOUS DAMAGES	ERROR! BOOKMARK NOT DEFINED.
FRAUDULENT MISREPRESENTATION	ERROR! BOOKMARK NOT DEFINED.
DAMAGES FOR NEGLIGENT MISREPRESENTATION	ERROR! BOOKMARK NOT DEFINED.
MISTAKE IN CONTRACT	ERROR! BOOKMARK NOT DEFINED.
VOID	ERROR! BOOKMARK NOT DEFINED.
RECTIFICATION	ERROR! BOOKMARK NOT DEFINED.
REFUSE SPECIFIC PERFORMANCE	ERROR! BOOKMARK NOT DEFINED.
VOIDABLE IN EQUITY	ERROR! BOOKMARK NOT DEFINED.
ILLEGAL AND VOID AT COMMON LAW	ERROR! BOOKMARK NOT DEFINED.
CONTRACTS IN RESTRAINT OF TRADE — MERELY VOID	ERROR! BOOKMARK NOT DEFINED.
LEGITIMATE INTEREST	ERROR! BOOKMARK NOT DEFINED.
Reasonable	ERROR! BOOKMARK NOT DEFINED.
CONSEQUENCES OF RESTRAINT OF TRADE	ERROR! BOOKMARK NOT DEFINED.
CONTRACTS INVOLVING A CRIME, TORT OR STATUTORY OFFENCE – EX TURP	ERROR! BOOKMARK NOT DEFINED.
CONTRACTS RENDERED ILLEGAL AGAINST HEADS OF PUBLIC POLICY	ERROR! BOOKMARK NOT DEFINED.
ILLEGAL VOID BY STATUTE	ERROR! BOOKMARK NOT DEFINED.
COMPARISON BETWEEN DIRECT STATUTORY ILLEGALITY AND PUBLIC POLICY	ERROR! BOOKMARK NOT DEFINED.
EXPRESS PROHIBITION	ERROR! BOOKMARK NOT DEFINED.
IMPLIED PROHIBITION	ERROR! BOOKMARK NOT DEFINED.
IMPACT ON DECISION TO REFUSE TO ENFORCE A CONTRACT ON THE BASIS OF DEFINED.	F PUBLIC POLICY ERROR! BOOKMARK NOT
EFFECT OF A ILLEGAL OR VOID CONTRACT	ERROR! BOOKMARK NOT DEFINED.
CONSEQUENCES OF DIRECT STATUTORY ILLEGALITY	ERROR! BOOKMARK NOT DEFINED.
SEVERANCE	ERROR! BOOKMARK NOT DEFINED.
RESTITUTION	ERROR! BOOKMARK NOT DEFINED.
ALTERNATE CAUSES OF ACTION	ERROR! BOOKMARK NOT DEFINED.
PERFORMANCE	ERROR! BOOKMARK NOT DEFINED.
DISCHARGE	ERROR! BOOKMARK NOT DEFINED.
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ENTIRE CONTRACT (EXACT PERFORMANCE) PRINCIPLE ERROR! BOOKMARK NOT DEFINED. **EXCEPTIONS TO EXACT PERFORMANCE RULE** ERROR! BOOKMARK NOT DEFINED. DIVISIBLE (SEVERABLE) PERFORMANCE **ERROR! BOOKMARK NOT DEFINED. ERROR! BOOKMARK NOT DEFINED.** DE MINIMUS RULE SUBSTANTIAL PERFORMANCE **ERROR! BOOKMARK NOT DEFINED.** ACCEPTANCE OF PARTIAL PERFORMANCE **ERROR! BOOKMARK NOT DEFINED.** QUANTUM MERUIT — 'AS MUCH AS THEY ARE WORTH' **ERROR! BOOKMARK NOT DEFINED.** OBSTRUCTION **ERROR! BOOKMARK NOT DEFINED. SUMMARY** ERROR! BOOKMARK NOT DEFINED. **MATTERS IMPACTING ON PERFORMANCE** ERROR! BOOKMARK NOT DEFINED.

TIME
DEPENDENT V INDEPENDENT OBLIGATION

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DISCHARGE AND VARIATION

DISCHARGE AND VARIATION DISCHARGE BY TERM IN THE ORIGINAL AGREEMENT

EXPRESS TERM
IMPLIED TERM
CONTINGENCIES

DISCHARGE BY SUBSEQUENT AGREEMENTMUTUAL DISCHARGE (BILATERAL DISCHARGE)

BY UNILATERAL DISCHARGE (RELEASE)

NOVATION WAIVER

ABANDONMENT

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TERMINATION DUE TO BREACH

TYPES OF BREACH

WAYS TO TERMINATE
EXPRESS RIGHT
IMPLIED RIGHT

TIME PROVISIONS

REPUDIATION / RENUNCIATION

ANTICIPATORY BREACH

ELECTION TO TERMINATE OR AFFIRMREQUIREMENTS FOR A VALID ELECTION

How to Elect

LOSS OF RIGHT TO TERMINATE OR AFFIRM

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FRUSTERATION

HISTORICAL DEVELOPMENT

ORIGINAL PERFORMANCE/ABSOLUTE CONTRACT RULE

MODERN DOCTRINE OF FRUSTRATION

DEFINITION

ELEMENTS

ELEMENT 1: SUPERVENING EVENT CAUSES RADICAL CHANGE

CHANGE OF LAW/ILLEGALITY

DESTRUCTION OF SUBJECT MATTER OF CONTRACT

FAILURE OF EXPECTED CONDITION OR TRIGGERING EVENT

FAILURE OF A CONTINUING CONTINGENCY OR UNDERLYING EVENT

CONTRACT FOR PERSONAL SERVICES (DEATH/INCAPACITY/IMPRISONMENT)
GOVERNMENT INTERVENTION

ELEMENT 2: NOT SELF-INDUCED

ELEMENT 3: NO CONTEMPLATION OF FRUSTRATING EVENT

NO FORESEEABILITY (UNFORESEEN BUT REASONABLE PERSON WOULD HAVE FORESEEN IT)

DEFINED.

NO TERM IN CONTRACT

THEORIES ON FRUSTRATION

EFFECT OF FINDING FRUSTRATION

COMMON LAW

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CONTRACT DAMAGES	ERROR! BOOKMARK NOT DEFINED.		
COMMON LAW DAMAGES	ERROR! BOOKMARK NOT DEFINED.		
CAUSATION	ERROR! BOOKMARK NOT DEFINED.		
REMOTENESS	ERROR! BOOKMARK NOT DEFINED.		
ASSESSMENT OF DAMAGES	ERROR! BOOKMARK NOT DEFINED.		
HEADS OF DAMAGE	ERROR! BOOKMARK NOT DEFINED.		
MITIGATION	ERROR! BOOKMARK NOT DEFINED.		
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LIQUIDATED DAMAGES CLAUSES	ERROR! BOOKMARK NOT DEFINED.		
PENALTIES	ERROR! BOOKMARK NOT DEFINED.		
FIXED SUMS AND DEBT	ERROR! BOOKMARK NOT DEFINED.		
ACTION IN DEBT	ERROR! BOOKMARK NOT DEFINED.		
FORFEIT IN DEPOSIT	ERROR! BOOKMARK NOT DEFINED.		
MITIGATION IN AN ACTION FOR DEBT	ERROR! BOOKMARK NOT DEFINED.		
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