

Types and Measures of Contract Damages

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NOTE: This chart illustrates how in contract law different theories of recovery afford different damages and how, under the right facts, those damages may have a cumulative effect.

FACTS: Barbara agrees to pay Sam \$20,000 if he will renovate her kitchen. She gives him a deposit of \$10,000 and, in reliance on their contract, pays an architect \$5,000 for plans and permits. Before he begins work, Sam repudiates the contract. Barbara discovers that no one will accept less than \$22,000 to do what Sam had promised to do. She has to give up her renovation plans as beyond her budget. She might elect to sue under any one of the three following theories of recovery:

Theory of Recovery \ Measure of Damages	Benefit Conferred	Other Costs of Reliance	Lost Value of Performance	Total Damages
Restitution: Compensation for benefits conferred on another. <i>See</i> R. (2d) of Contracts § 371.	\$10K down payment	--	--	\$10K
Reliance: Compensation for expenses incurred in reasonable reliance on another's performance. <i>See</i> § 349.	\$10K down payment	\$5K architect's fees	--	\$15K
Expectation: Compensation for the net expected benefits of another's performance, plus other losses. <i>See</i> § 347.	\$10K down payment	\$5K architect's fees	\$2K lost value	\$17K

CAVEATS: Different facts may not support all these same theories of recovery. A plaintiff making only a promissory estoppel claim will typically not win expectation damages, for instance, and a plaintiff making only a quasi-contract claim will almost certainly get no more than restitution. Even a plaintiff making a contract claim may find that she has no right to recover restitution damages (as would be the case had Barbara not made a down payment) or that she has no right to reliance damages (as would be the case had Barbara not spent money on plans and permits). Furthermore, a plaintiff may find her claim for damages barred by some intervening doctrine, such as avoidability (*see* R. (2d) of Contracts § 350), unforeseeability (*see* § 351), or certainty (*see* § 352).