

## Publisher's Note

2018 — Release 2

Previous release was 2018-1

From Your Library:

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## Damages for Breach of Contract

This looseleaf service thoroughly examines the principles of law applicable to the remedy of damages for breach of contract. The authors provide a clear, comprehensive treatment of all types of damages including liquidated damages, punitive damages, damages for mental distress, aggravated damages and nominal damages. Individual chapters cover compensation for pecuniary and non-pecuniary loss, valuation of damages, measuring damages, pre-judgment interest, taxation and damages, and practice and procedure.

### What's New in this Update:

This release includes significant updates to the case law and commentary in Chapter 1 (Compensation for Pecuniary Loss: General Principles) and updates to the Selected Legal Literature tab.

### Release Highlights

**Chapter 1 — Compensation for Pecuniary Loss: General Principles — Purpose of Contract Damage Award** — The guiding principle in assessing damages for breach of contract is to put the wronged

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party in the position that he or she would have been in had the contract been performed. This entails accounting for not only the benefits that the wronged party would have received as a result of the contract, but also the costs that the wronged party would have to incur as a result of the contract. The recent decision of the Ontario Court of Appeal in *DHMK Properties Inc. v. 2296608 Ontario Inc.* provides a useful illustration of this “benefits minus costs” calculation of damages. (*DHMK Properties Inc. v. 2296608 Ontario Inc.*, 2017 ONCA 961 (Ont. C.A.))

**Chapter 1 — Compensation for Pecuniary Loss: General Principles — User Damages: Misuse of Property** — The authors have updated the section on reliance restitution and loss of profits by adding a section on user damages. This new section presents a very challenging legal issue. In contract damages, there are cases where, although the plaintiff has not suffered a loss, the defendant has made use of the plaintiff’s monies or property in a manner not permitted by the contract. In such cases, the court may be moved to assess and award a “reasonable fee” for the use of the plaintiff’s monies or property, particularly where the misuse was in furtherance of the defendant’s commercial interests. The authors discuss the case law and offer their view on this topic.

**Chapter 1 — Compensation for Pecuniary Loss: General Principles — Claiming and Calculating Loss of Profits** — Damages for lost profit, although easy to grasp as a matter of principle, have often confounded practitioners and the courts when it comes to their calculation. The basis equation for a loss of profit calculation can be expressed as follows:  $\text{Loss of Profit} = \text{Plaintiff's Expected Gain (minus) Plaintiff's Costs}$ . In this new section, the authors review this concept and provide examples to expand on their explanation of this concept.