Contracts & Remedies Essay Framework

A reliable way to organize contract damages without forcing every remedy into every answer.

Start with the governing law, formation and breach. Remedies answer the next question: what position should the injured party occupy, and which measure fits the facts?

Step 1: Capture the numbers

Before writing, identify the figures that will drive the calculation. The problem may not give every category, and the same number may matter differently depending on the injured party.

- Contract price and payments already made
- Value or cost of the promised performance
- Costs avoided because performance stopped
- Reasonable substitute or cover amount
- Incidental expenses and claimed lost profits
- Amount already spent in reliance
- Value of any benefit conferred

Step 2: State the limits once

Contract damages must be caused by the breach, proved with reasonable certainty, reasonably foreseeable when the contract was made, and reduced by losses the injured party could reasonably have avoided. The injured party need not take unreasonable or unduly burdensome steps to mitigate.

Step 3: Choose the primary measure

Expectation damages

The usual measure puts the injured party in the economic position they would have occupied had the contract been performed. A useful general formula is: value of promised performance minus value received, plus incidental and consequential loss, minus costs or losses avoided.

Reliance damages

Reliance reimburses expenditures reasonably made because of the agreement and aims to restore the injured party to the position occupied before the contract. It is generally an alternative when expectation is too uncertain, not an additional recovery for the same loss.

Restitution

Restitution prevents unjust enrichment by measuring the benefit conferred on the other party. It may be available when a contract is unenforceable, rescinded, or breached; it is not limited to situations in which no enforceable contract exists. Avoid duplicative recovery.

Step 4: Add fact-triggered losses

Consequential damages

Consequential losses arise from the injured party's particular circumstances, such as lost profits. They must satisfy causation, reasonable certainty, and foreseeability. Ask whether the breaching party had reason to know the special circumstance when contracting.

Incidental damages

Incidental damages are reasonable expenses caused by responding to the breach, such as inspection, transportation, care, custody, cover, or arranging substitute performance. Use the terminology that fits the governing law and party.

Step 5: Test equitable relief only when the facts support it

- Specific performance: a valid and sufficiently definite contract, the plaintiff's performance or excuse, inadequate money damages, feasible enforcement, and no equitable defense. Land is ordinarily unique; goods require a showing of uniqueness or other proper circumstances.
- Rescission: unwinds the transaction when a recognized ground such as fraud, material mistake, failure of consideration, or material breach supports avoiding the agreement. Restoration or tender of benefits may matter.
- Replevin: recovery of identified personal property when the claimant has a superior right to possession and ordinary damages are inadequate.
- Injunction: consider only when the facts support threatened or continuing harm and the ordinary equitable requirements.
- Constructive trust or equitable lien: tracing remedies for identifiable property or proceeds in the defendant's hands. A constructive trust seeks transfer; an equitable lien secures a money claim against the property.

UCC checkpoint

If Article 2 governs, identify whether the claimant is the buyer or seller before choosing a formula. Buyers may seek cover or market damages plus incidental and consequential damages; sellers may seek resale or market damages plus incidental damages, and in the proper case lost profits or the price. Always prevent double recovery and subtract expenses saved.

Fast essay sequence

Order	Question to answer
1	What law governs, and was there an enforceable duty and breach?
2	What is the injured party's primary expectation measure?
3	Do causation, certainty, foreseeability, or mitigation limit it?
4	Do the facts support incidental or consequential loss?
5	Is reliance, restitution, or equitable relief a better alternative?
6	State the likely measure without awarding the same loss twice.

This framework is a planning tool, not a substitute for the facts or the governing jurisdiction's rules.