

# WHEN TO SUE FOR BREACH OF CONTRACT

## BREACH OF CONTRACT DEFINED

When *can* you sue for breach of contract? To succeed on a claim for breach of contract in California, the plaintiff must show four elements:



1. There is a valid Contract



2. You have performed your side of the bargain



3. The other party has breached



4. The resulting damages

## Step One: look at the language in the contract.

1. Are there conditions for performance beyond your material obligations?
  - a. Have you done everything required of you for the other party to perform?
  - b. Was a condition for the other party's performance waived by your actions?
2. Has the other party not done something required by the contract?

## Step Two: can you show harm?

You must be harmed in some material, tangible way. Most likely this is a monetary loss. But there can be other harms, such as not getting something you were promised.

## Step Three: did the other party cause your damages?

The defendant's breach must be both the *actual cause* and *proximate cause* of your harm.

## CONSIDERATIONS BEFORE YOU SUE

Just because you *can* sue does not mean you *should* sue



- Is your potential recovery worth the cost of litigation?
- If you win, will the other side actually have the money to pay?



Litigation takes time. From start to finish, it can take years.



Is it important to preserve your relationship with the other party (friendship or business)?

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