

Contract Remedies in the 21<sup>st</sup> Century  
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1. Introduction: Undercompensation as Injustice
2. Certainty Doctrine in the 21<sup>st</sup> Century
  - a. Hypothesis: With the growing acceptance of economic expert testimony, relatively few cases exist in which the certainty doctrine precludes recovery.
  - b. Data
3. Foreseeability in the 21<sup>st</sup> Century
  - a. Hypothesis: A growing willingness to find relatively less obvious effects foreseeable produces relatively few cases in which foreseeability doctrine limits recovery.
  - b. Data
4. Liquidated Damages in the 21<sup>st</sup> Century
  - a. Hypothesis: As academic proposals to honor penalty clauses in at least some circumstances work their way into the courts, relatively few liquidated damages clauses will be found unenforceable.
  - b. Data
5. Damage Exclusions in the 21<sup>st</sup> Century
  - a. Hypothesis: Unconscionability now arises in very few cases other than exclusions of consequential damages – and very rarely succeeds in defeating clauses excluding consequential damages.
  - b. Data.