



THE TERMINATOR

(MANAGING NON-PERFORMANCE IN CONTRACTS)

BUSINESS BREAKFAST CLUB



CONTRACT MANAGEMENT

The Information Pathway

- Performance indicators
- Lead indicators



CONTRACT MANAGEMENT

The Character of “Damages”

Compensates for the losses which flow naturally from that breach of that contract.



CONTRACT MANAGEMENT

The Character of “Damages”

The contract should reflect:

- What you want; and
- What you suffer if the contract is not performed “on time” and “in accordance with specification”.



CONTRACT MANAGEMENT

Contract Terms

If you sign it, you are stuck with it!

L'Estrange v Graucob



CONTRACT MANAGEMENT

Termination

Terminating a contract is a matter of considerable risk.

Mark Love



CONTRACT MANAGEMENT

Termination

Terminating a contract leaves the contract parties free from any further obligation to perform the contract.



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Termination

Only certain “breaches” permit you to validly terminate a contract.



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Terminating a contract has the obvious consequence of a counterclaim for “wrongful termination”.



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You can unintentionally “repudiate”: it is how your behaviour is objectively interpreted.



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Repudiatory conduct may be 'cured' by the party in breach, but only prior to the acceptance of the repudiation.



THANK YOU

NEXT BUSINESS BREAKFAST CLUB IS ON 13 JULY 2018.