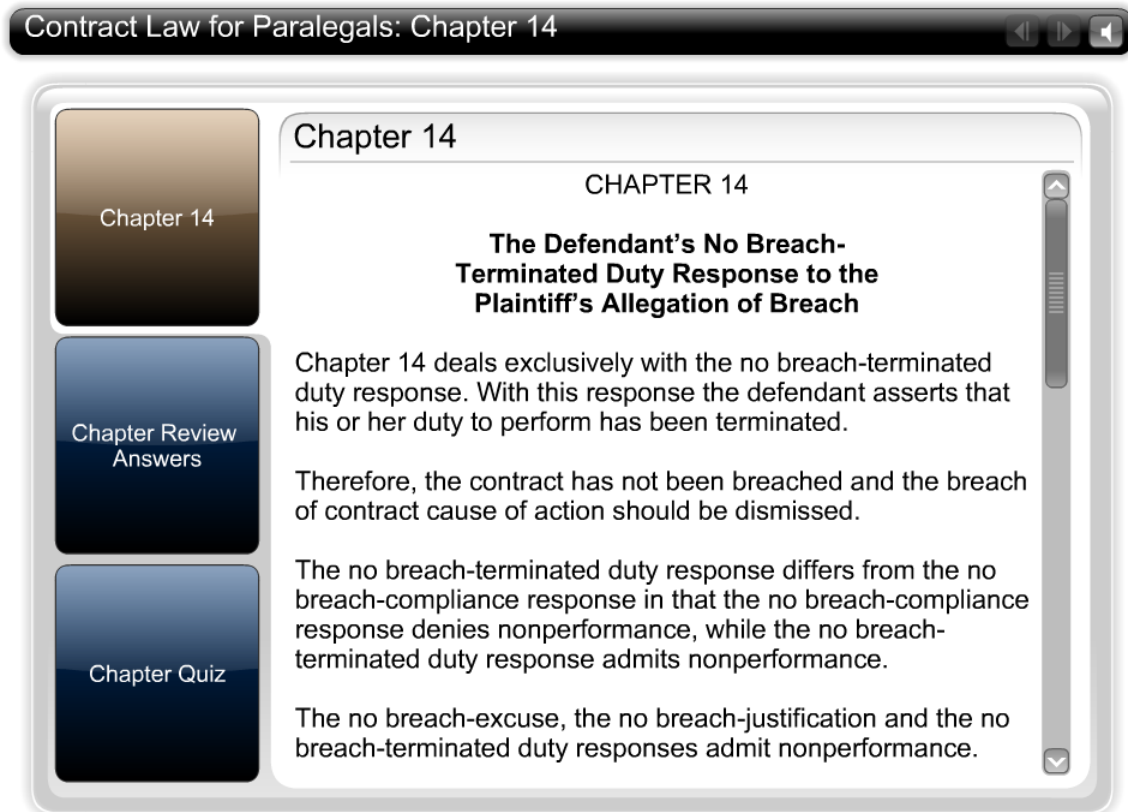


Contract Law for Paralegals: Chapter 14

Chapter 14



The screenshot shows a digital document viewer window titled "Contract Law for Paralegals: Chapter 14". The window contains a sidebar on the left with three buttons: "Chapter 14" (selected), "Chapter Review Answers", and "Chapter Quiz". The main content area displays the following text:

Chapter 14

CHAPTER 14

The Defendant's No Breach-Terminated Duty Response to the Plaintiff's Allegation of Breach

Chapter 14 deals exclusively with the no breach-terminated duty response. With this response the defendant asserts that his or her duty to perform has been terminated.

Therefore, the contract has not been breached and the breach of contract cause of action should be dismissed.

The no breach-terminated duty response differs from the no breach-compliance response in that the no breach-compliance response denies nonperformance, while the no breach-terminated duty response admits nonperformance.

The no breach-excuse, the no breach-justification and the no breach-terminated duty responses admit nonperformance.

Tab Text

CHAPTER 14

The Defendant's No Breach-Terminated Duty Response to the Plaintiff's Allegation of Breach

Chapter 14 deals exclusively with the no breach-terminated duty response. With this response the defendant asserts that his or her duty to perform has been terminated.

Therefore, the contract has not been breached and the breach of contract cause of action should be dismissed.

The no breach-terminated duty response differs from the no breach-compliance response in that the no breach-compliance response denies nonperformance, while the no breach-terminated duty response admits nonperformance.

The no breach-excuse, the no breach-justification and the no breach-terminated duty responses admit nonperformance. They do not, however, admit breach. The no breach-excuse response bases nonperformance on a supervening event (act of God or governmental action) rather than on any action or inaction of the other party. The no breach-justification response bases nonperformance on the other party's prior breach. The no breach-terminated duty response may assert that the terminating event is internal or external to the contract. If internal, the terminating event will be the occurrence of an express condition subsequent. If external, the terminating event could be consensual or by operation of law. A consensual termination could take the form of a substitute contract, an accord and satisfaction, or a novation.

A termination by operation of law could be by application of a statute of limitations.

Exhibit 14-1 (448) illustrates the defendant's no breach-terminated duty response to the plaintiff's allegation of defendant's breach of contract.

PARALEGAL EXERCISE 14.1 (449) is a Statute of Limitations application of the no breach-terminated duty response. The buyer would allege the breach as failure to make a timely delivery on November 1, 2006. The time for commencing the breach of contract action would need to be before November 1, 2009. Buyer commenced the breach of contract action on March 1, 2010, eight months too late. Therefore, the seller's no breach-terminated duty response would be appropriate.

One final point, we have been unable to find a restitution cause of action case that relates to a no breach-terminated duty response. As noted in the materials, a restitution cause of action could be maintained if a breach of contract cause of action would fail due to no breach-compliance, no breach-excuse, and no breach-justification.

This does not appear to be the case with the no breach-terminated duty response.

Chapter Review Answers

Contract Law for Paralegals: Chapter 14

Chapter 14

Chapter Review Answers

Chapter Quiz

Chapter Review Answers

TRUE/FALSE QUESTIONS

1. F
2. T
3. T
4. T
5. T
6. T
7. T
8. T

FILL-IN-THE-BLANK QUESTIONS

1. Condition subsequent
2. Mutual releases
3. Waiver
4. Statute of Limitations

Tab Text

TRUE/FALSE QUESTIONS

1. F
2. T
3. T
4. T
5. T
6. T
7. T
8. T

FILL-IN-THE-BLANK QUESTIONS

1. Condition subsequent
 2. Mutual releases
 3. Waiver
 4. Statute of Limitations
-

MULTIPLE CHOICE QUESTION

1. b, c, d, & e
2. c & d

SHORT ANSWER QUESTIONS

1. In a “no breach-compliance” response, the promisor asserts that he or she is performing according to the terms of the contract. In a “no breach-terminated duty” response, the promisor admits nonperformance but asserts that he or she no longer has the duty to perform. Therefore, the nonperformance is not a breach as alleged by the promisee.

2. In a both a “no breach-justification” response and a “no breach-terminated duty” response, the promisor admits nonperformance. In the “no breach-justification” response, the promisor claims that the action of the other contracting party has made it unnecessary for him or her to perform. In a “no breach-terminated duty” response, the promisor asserts that he or she has been relieved of the duty to perform by some unilateral action of the other (waiver or estoppel), consent between the parties (substitute contract, mutual releases, or novation) or by a governmental condition subsequent on his or her duty (statute of limitations).

Chapter Quiz

Contract Law for Paralegals: Chapter 14

Chapter Quiz

[Click Here to take a quiz based on this chapter.](#)

Tab Text

[Click Here to take a quiz based on this chapter.](#)
