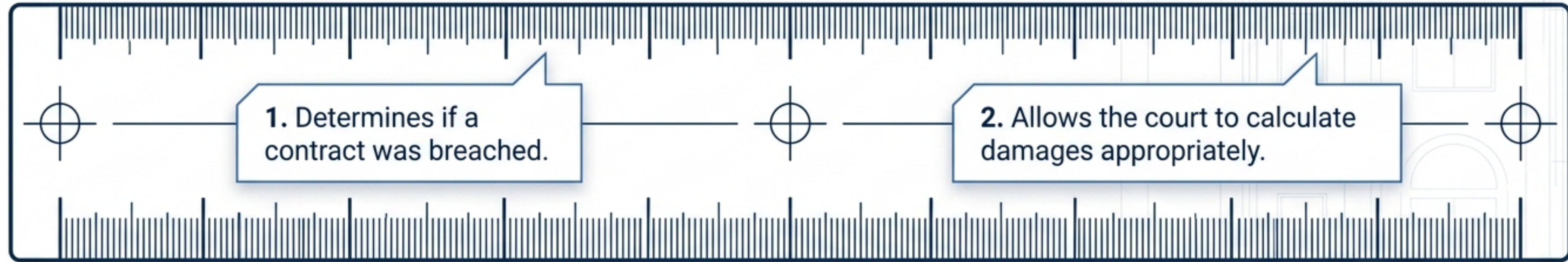


Contract Law Fundamentals

A Visual Reference Guide:
Pre-Contractual Liability &
The Statute of Frauds



The Foundation: The Requirement of Definiteness



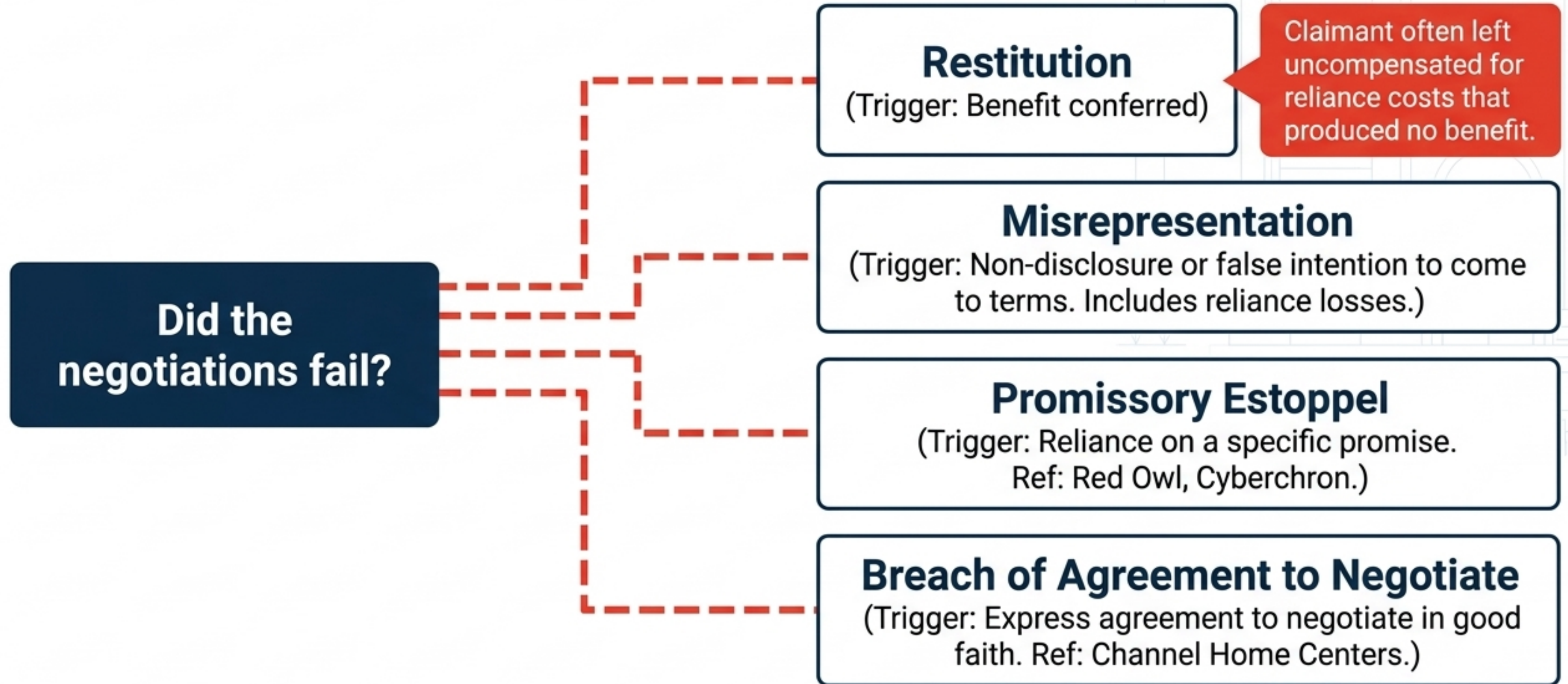
Sources of Definiteness

- ✓ Preliminary negotiations
- ✓ Prior communications
- ✓ External regulations & trade usages
- ✓ Prior course of dealing
- ✓ Course of performance (UCC § 1-303)

Acceptable Pricing Mechanisms

Flexible Pricing	Open Pricing	Escalator Clauses
General flexibility that does not fail for indefiniteness.	Reasonable price at time of delivery. UCC §2-305.	Price fixed to a market formula. Oglebay.

The Landscape: When Negotiations Fail



The Good Faith Matrix: Distinguishing Preliminary Agreements

Agreements to Agree	Agreements to Negotiate in Good Faith
<p>Status: Generally Unenforceable.</p> <p>Rationale: Viewed as too indefinite; damages cannot be feasibly calculated since ultimate terms are uncertain (traditional English view).</p>	<p>Status: Enforceable (American common law view).</p> <p>Case Anchor: Channel Home Centers.</p> <p>Key Insight: Not an independent legal duty, but a “breach of a preliminary agreement to negotiate.” Brings the implied duty of good faith into the pre-contractual phase.</p>

Note: UNIDROIT Principles (Art. 2.1.15) and UCC §1-203 impose broader obligations of good faith, but under US common law, an express agreement is the only sure way to impose significant pre-contractual liability.

Triggering Promissory Estoppel

The Promise

Must be clear and unambiguous. (e.g., An explicit offer of \$700 to paint a house).

1

Reasonable Reliance

Reliance by the receiving party must be both reasonable and foreseeable by the promisor.

2

Detrimental Injury

An injury sustained specifically by reason of that reliance. (e.g., Spending \$300 out-of-pocket on paint).

3

Equitable Remedy Note: Designed to prevent fundamental “unfairness” and unjust enrichment when traditional contract elements are missing.

Calculating the Cost: Measures of Recovery

The Prevailing Theory

Reliance Damages

Recovery of out-of-pocket expenses and lost opportunities. Damages must be capable of reasonable certainty and foreseeable. Compensates for actions taken in reliance should the other party unjustly walk away.



The Minority View

Expectation Damages

Damages based on breach of the contemplated ultimate transaction. Requires claimant to meet a very high burden.

The “But For” Burden:

Claimant must prove that “but for” the breach, the deal would have concluded (SIGA Techs).

Requires fact-finder speculation, often failing the “reasonable certainty” standard.

The Statute of Frauds (SOF): The Formal Guardrails

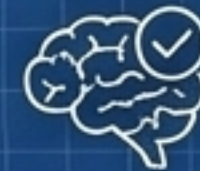
SOF requires certain kinds of contracts to be written and signed by all parties to be binding. Protects against enforcement of “alleged” contracts that were never formed or ill-considered.

Concept 1: The Affirmative Defense



A fact or set of facts that operates to defeat a claim even if the facts supporting the claim are true. (Alternative, even contradictory, defenses can be argued).

Concept 2: The Dual Purpose



Cautionary Function: Forces parties to take the agreement seriously and be careful (a mental check).



Evidentiary Function: Prevents fraud and perjury in court; establishes definitive proof.

Contracts Requiring a Writing: M.Y. L.E.G.S.

M



Marriage: Promises made in consideration of marriage (e.g., prenups).

Y



Year: Contracts that cannot be performed within one year from the date formed.

L



Land: Contracts for the transfer of an interest in real estate/land.

E



Executor: Contracts made by executors and administrators.

G



Guaranty: Collateral contracts (promises to answer for the debt of another).

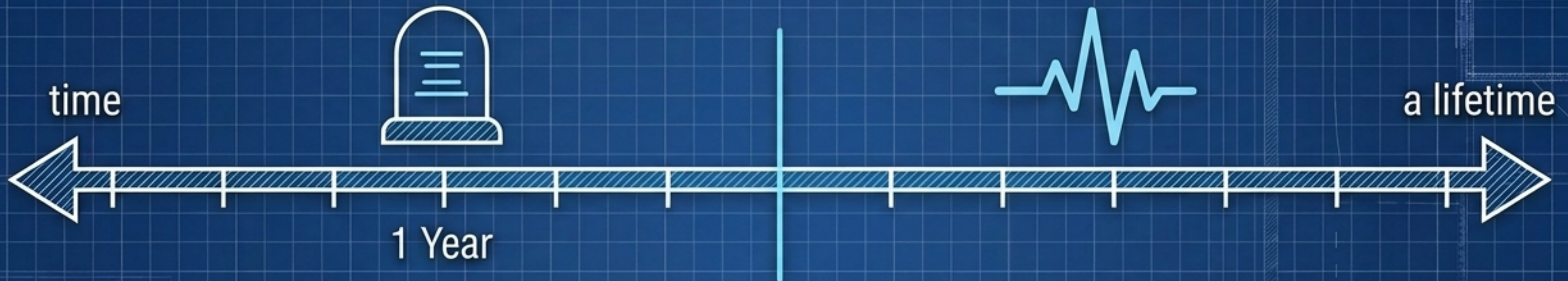
S



Sale of Goods: Contracts for the sale of goods valued at \$500 or more (UCC § 2-201).

Application Exception: The 1-Year Rule Paradox

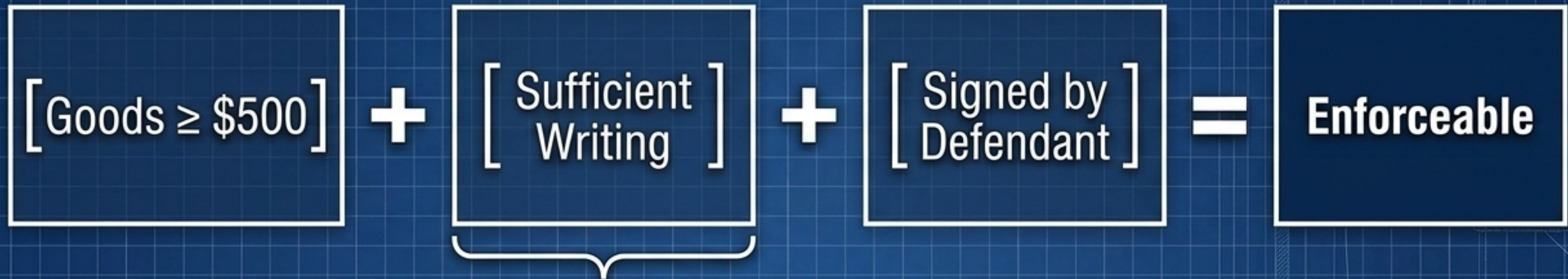
The Rule: SOF applies to contracts that cannot be performed within one year after the contract is formed.



The Paradox: Lifetime Contracts are NOT covered by the Statute of Frauds.

The Logic: A contract measured by a lifetime (e.g., “I promise to employ you until I die”) does not inherently extend beyond one year, because the person measuring the contract might die within a year. Therefore, an oral agreement for a lifetime contract CAN be enforceable.

Application: UCC § 2-201 (Sale of Goods)



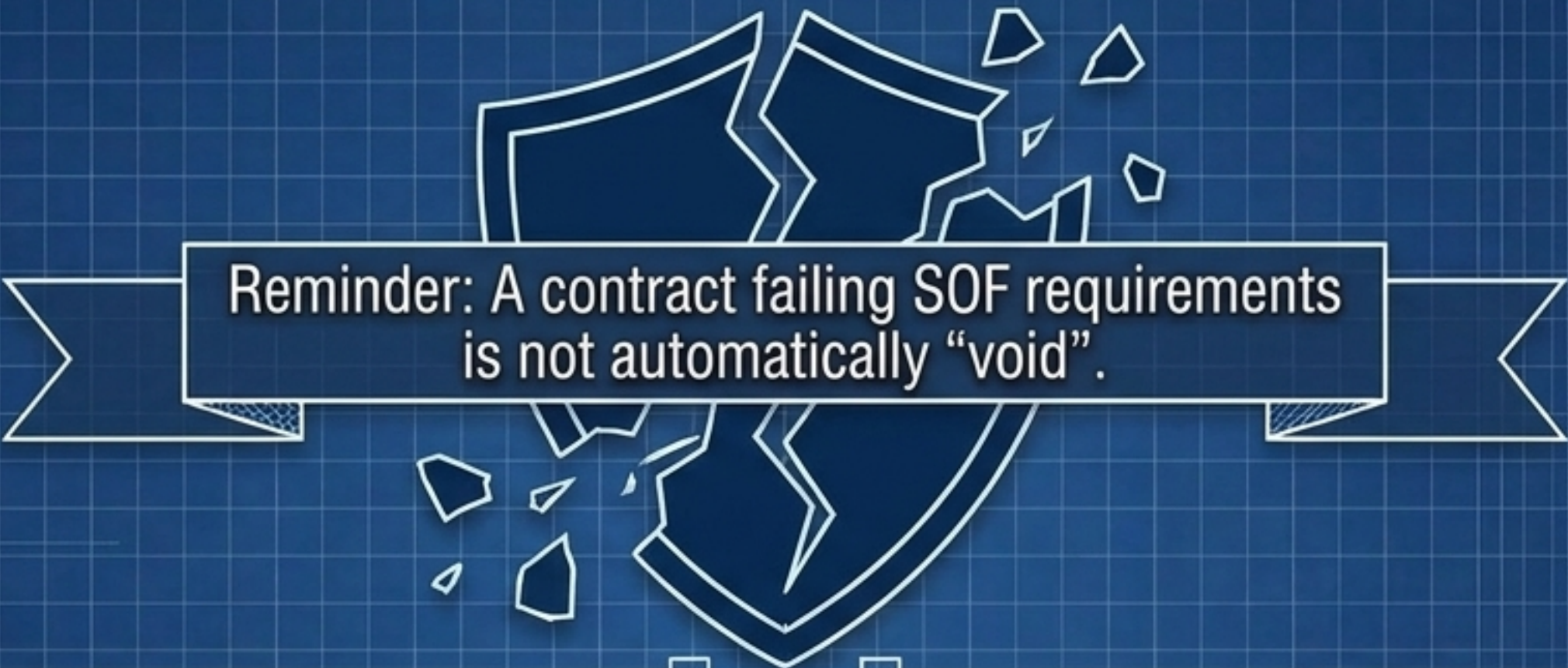
A writing is not insufficient just because it omits or incorrectly states a term agreed upon.

The Critical Variable: The Quantity Term

- The ONLY term that must definitively appear.
- Need not be accurately stated, but recovery is strictly limited to the amount stated in the writing.

Alternative Enforcement: Enforceable without a writing if goods are specially manufactured, admitted in court, or payment/goods have been received and accepted.

Overcoming the SOF: Equitable Exceptions



Reminder: A contract failing SOF requirements is not automatically “void”.

Exception 1: Partial Performance

(The Part Performance Doctrine)

- **Trigger:** One party has already partially performed on the agreement in some significant fashion.
- **Result:** Can save an oral agreement from being invalidated by providing undeniable evidence that an agreement existed.

Exception 2: Promissory Estoppel

- **Trigger:** Detrimental reliance on the oral agreement.
- **Result:** An equitable remedy steps in to prevent fundamental unfairness and unjust enrichment, overriding the strict writing requirement.

Master Synthesis: The Contract Formation Blueprint

The Messy Middle (Pre-Contractual)

Domain: Blurred Lines
(Negotiations, Good Faith, Reliance).

Core Action: Did someone make a promise or confer a benefit before signing?

Key Frameworks:
• Promissory Estoppel (3 elements), Good Faith Agreements (Channel Home).

Primary Remedy:
• Reliance Damages (Out of pocket).

Domain: Bright Lines
(Formalities, Written Evidence, Signatures).

Core Action: Does this agreement fall under M.Y. L.E.G.S.?

Key Frameworks:
M.Y. L.E.G.S., UCC § 2-201 (Quantity Term = King).

Primary Defense: Affirmative Defense against enforcement.
Primary Defense: Affirmative Defense against enforcement.

**The Ultimate Safety Net:
Promissory Estoppel / Restitution**
(Prevents fundamental unfairness across both domains)

The Formal Guardrails (Statute of Frauds)