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**Nathaniel Wadsworth** *Sharing what I know...*



## Great Expectations

According to some news reports, LeBron James made a promise that he would win an NBA championship for the city of Cleveland. On July 8, the fulfillment of that promise evaporated when James announced his “decision” to play for the Miami Heat. Just like the fans in Cleveland, we all experience broken promises. But while sports fans cannot enforce an athlete’s promise to deliver a championship, the law does protect innocent parties to a broken contract. In many situations, such protection does not have to come through litigation.

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When two people enter into a contract, they each make a promise to the other to perform in a certain way. For example, a salesman promises to deliver a product after the buyer fulfills his promise to pay money, or an employee promises to work a specified number of hours in the week in exchange for the employer’s promise to pay a determined salary. At the time they sign a contract, people generally do not expect or intend for these promises to be broken. Often, however, parties to a contract are like two characters in Thomas Hardy’s *Jude the Obscure*, whose “fundamental error” was “that of having based a permanent contract on a temporary feeling.”

Once a contract is broken, the parties will be wise to try to resolve the problem to the satisfaction of all. If this does not work, the victim of a broken contract can seek redress in a court of law. In many instances, litigation is not the most efficient way for resolving contract disputes. After personal communications between parties fail, a mediation (with a neutral third party who seeks to aid the parties in reaching a settlement agreement) or arbitration (where a neutral third party judges the case and renders a decision that can have the same binding authority as a court judgment) can help resolve the problem. These methods of resolution generally cost much less and are more efficient than an action in court. Because of the convenience of mediation and arbitration, an increasing number of contracts include provisions requiring the use of these methods before a party can file a lawsuit.

When entering into a contract, you may be wise to consider including a provision requiring mediation or arbitration in the event of a party’s broken promise. This is just one way a well-drafted contract can protect your rights and expectations. If you need help with this type of situation or any other legal matter call me today at (480) 833-1113.