

Legal Construction of Breach of Contract Indicating Fraud in Business Cooperation Agreements

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ABSTRACT

This normative legal study aims to construct an effective legal framework for addressing breach of contract indicating fraud (bad faith breach) in business cooperation agreements. The research focuses on three main aspects: distinguishing and proving bad faith (te kwader trouw) as an indication of fraud, constructing claims for material and immaterial compensation, and formulating effective legal remedies. Using a qualitative literature study method with a normative juridical approach, this research analyzes secondary data from the Indonesian Civil Code (Burgerlijk Wetboek), relevant regulations, legal doctrines, and jurisprudence. The findings indicate that the key differentiator between ordinary breach and fraudulent breach lies in the subjective element of intent to deceive, often evidenced by material misrepresentation or concealment of facts during the pre-contractual phase. This shifts the legal basis from mere breach of contract (Article 1243 BW) to defect of consent (Article 1321 BW) and unlawful acts (Article 1365 BW). Consequently, the construction of compensation expands to include both calculable material losses and immaterial losses related to reputational damage. An effective lawsuit must strategically combine contractual and delictual grounds, supported by a comprehensive evidence strategy targeting proof of bad faith and a measurable, auditable calculation of losses. This study contributes to the development of contract law by emphasizing the proactive role of the good faith principle in combating contractual deception and providing a practical litigation framework for victims.

INTRODUCTION

The philosophical basis of contract law in various modern legal systems lies in the principle of freedom of contract and the necessity to fulfill promises (*pacta sunt servanda*). This principle forms the legitimate expectation that parties will perform their obligations voluntarily and in accordance with the agreement. Fundamentally, every individual or business entity must understand that formal agreements are the primary foundation for conducting healthy business practices (Da Silva et al., 2022). However, the reality of business interaction is often colored by non-compliance with established agreements. In the law of obligations, this non-compliance is known as breach of contract, a state where the debtor fails to perform as promised, performs late, or performs imperfectly. The use of appropriate contractual instruments is actually very effective in preventing disputes and maintaining legal stability in the business world (Wibowo et al., 2021). The concept of breach of contract, as developed in legal science, does not always contain an element of

subjective fault. There are times when a breach occurs due to factors beyond the debtor's control, such as force majeure. In such conditions, legal liability is limited solely to the aspect of failing to meet the obligation. Problems begin to emerge when such non-compliance arises not from inability, but from a deliberate intent based on a specific motive to obtain a unilateral advantage.

In the development of the theory of the law of obligations, attention has begun to shift toward the subjective elements underlying a breach of contract. This study leads to a distinction between a breach occurring due to ordinary negligence (ordinary breach) and a breach grounded in bad faith (bad faith breach). The application of the principle of good faith is the primary key that must be upheld by every party in implementing the contents of the agreement (Irfansyah et al., 2024). Bad faith, or in Dutch terminology referred to as *te kwader trouw*, is a legal psychological state where a person acts with the awareness that their actions violate the law or violate

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agreed-upon obligations. In a contractual relationship, bad faith can appear from the very beginning of the agreement's formation for instance, by providing misleading information or it can grow during the execution of the agreement, where one party subsequently decides to deliberately break their promise because they see an opportunity for greater profit by failing to fulfill their obligations. The transition from an ordinary breach of contract to a breach indicating fraud is what constitutes the point of particular concern.

The focus of this research is on the specific form of bad faith within business cooperation agreements that crystallizes into an indication of fraud. Fraud in contract law is defined as the act of intentionally providing false information or concealing material facts with the aim of inducing another party to agree to a contract or perform a specific obligation. When a breach of contract is based on a fraudulent plan from the outset, or when a party deliberately breaks a promise as part of a scheme to divert profits to themselves, the boundary between civil law and criminal law begins to blur (Sriwidodo, 2021). In addition to civil law aspects, professional integrity and ethics also play a vital role in maintaining justice for all parties involved in the legal system (Saktiawan et al., 2021). Such actions are not merely a violation of an agreement but have entered the realm of unlawful acts involving elements of intentionality and deception. Efforts to dissect the elements of bad faith leading to fraud require a sharper legal approach.

In business cooperation agreements, the relationship between parties is usually based on trust and the expectation of achieving common goals. These forms of cooperation can include joint ventures, partnerships, or project financing agreements. The economic value involved is often significant, and the dependence of one party on the performance of the other is very high. Therefore, every company has a moral responsibility and a legal obligation to maintain business ethics in all its activities (Darmawan, 2022). It is this condition that makes business cooperation vulnerable to exploitation by parties acting in bad faith. For example, one party may deliberately withdraw or fail to provide capital contributions after the other party has invested their resources, calculating that they can unilaterally seize control of the project or force a renegotiation that favors themselves. Strong economic motives, combined with information asymmetry, create a fertile environment for the growth of strategic and deceitful breaches of contract.

The legal consequences of a breach of contract indicating fraud are, of course, far more severe than those of an ordinary breach. The law must provide a

response that not only restores economic losses (material damages) but also considers non-economic losses (immaterial damages). Immaterial damages may include the tarnishing of business reputation, loss of future business opportunities, psychological pressure, and the destruction of established trust. In an increasingly dynamic work environment, the protection of individual rights within employment contracts has also become an inseparable part of legal justice (Nugraha et al., 2024). A claim for damages filed by the aggrieved party must be able to reach both of these dimensions of loss. Therefore, a comprehensive understanding of how to prove bad faith, link it to elements of fraud, and formulate a comprehensive claim for damages is essential to uphold justice in the business world and prevent the abuse of contractual institutions for unscrupulous purposes (Setiawan & Rumkel, 2021).

The core problem that arises is the difficulty in clearly distinguishing and legally proving the transition from an ordinary breach of contract to a breach grounded in bad faith with indications of fraud. The line between excusable business negligence and a deliberate intent to deceive is often blurred. The subjective element in the form of *mens rea* or malicious intent is something inherent in the perpetrator's mind; thus, its proof requires strong *indicia* or pointers. This is similar to the importance of legal protection for workers so they do not become victims of various forms of labor-related criminal acts (Arrosyid et al., 2024). Courts often focus solely on whether a contract clause has been violated, without further investigating the motives and behavioral patterns underlying the violation. Yet, the difference in motivation determines the legal qualification and the extent of liability. Without evidence that can reveal bad faith such as internal communications, sudden changes in behavioral patterns, or the perpetrator's track record in similar transactions the aggrieved party will face difficulties in filing a more substantive lawsuit.

Another problem lies in the legal construction of immaterial damages in business agreement cases. Laws and doctrines more readily recognize immaterial losses in cases of unlawful acts, such as defamation or assault. However, within the scope of pure breach of contract, immaterial damage claims are often rejected on the grounds that agreements are essentially economic in nature. Yet, legal certainty regarding wages and other fundamental rights is an important aspect protected by current laws (Jakariya et al., 2024). In a breach indicating fraud, the losses suffered are not merely financial. The entrepreneur's reputation at stake, the stress of being deceived, and the loss of trust from other business partners are real

losses affecting business continuity. The current legal system lacks a clear and consistent formulation regarding the parameters for measuring and awarding immaterial damages arising from deception in cooperation agreements. This uncertainty causes injustice, where perpetrators of contractual fraud are only subjected to damages equivalent to direct financial losses, while the long-term damage inflicted is not held accountable (Syarif, 2021).

An additional challenge is the dynamics of relationships within business cooperation themselves, which are often not fully captured in written agreements. Many important agreements are made orally or through custom. On the other hand, technological developments also demand clear rules regarding the validity of electronic contracts involving artificial intelligence (Maulani et al., 2023). When a dispute occurs, a party acting in bad faith can hide their true intentions by sticking to the literal provisions of the written agreement while denying the existence of other agreements outside the document. This practice is known as sharp practice or legalistic fraud, where someone uses formal legal loopholes to achieve an unfair objective. In such situations, the application of the good faith doctrine in the execution of the agreement becomes a test. However, this elastic good faith doctrine also poses problems in its application because it can be considered subjective and create legal uncertainty. Therefore, the effectiveness of regulation is highly necessary to guarantee the protection of rights for contract workers (Terubus et al., 2024). More operational criteria are needed to determine when a violation of good faith has become so severe that it can be qualified as a fraudulent act.

The development of the digital economy and increasingly complex collaborative business models have made business relationship patterns more fluid and rapid. Many partnerships are built based on online reputation, investment promises, and projections that are sometimes untested. In digital transactions, the validity of electronic contracts becomes a primary supporting factor to provide maximum legal protection (Sulaiman et al., 2023). This fast-paced business environment can be exploited by irresponsible parties to carry out planned breach of contract schemes. They may establish temporary business entities, enter into agreements with multiple partners, intentionally default, then disappear or go bankrupt, only to reappear as a new entity. This condition is also often influenced by the level of competence and leadership within an organization (Hariyani, 2023). A systematic study regarding the element of fraud in a breach of contract is essential as an early warning system for business actors and as a

consideration for policymakers to tighten rules on corporate liability and piercing the corporate veil in cases of contractual fraud.

At the judicial level, there is an urgent need to align the interpretation of articles regarding torts (Article 1365 of the *Burgerlijk Wetboek*) with breach of contract (Article 1238 of the *Burgerlijk Wetboek*) in cases involving bad faith. Court rulings show wide variation. Some judges are reluctant to combine these two causes of action, while others have begun to recognize that a breach of contract committed with deceitful tactics can simultaneously constitute a tort. Provisions regarding lump-sum work contracts also require legal clarity so that justice is maintained (Darmawan & Marsal, 2024). An in-depth literature review can help formulate a consistent conceptual framework for law enforcers. This framework will guide judges to identify indicators of bad faith, distinguish them from an ordinary breach of contract, and determine the consequences of compensation proportionally, including for non-material losses.

Academically, the discourse regarding good faith and bad faith in contract law is still largely rooted in legacy theories. Meanwhile, modern business practices have given rise to sophisticated new forms of contractual fraud. This study is essential to bridge the gap between classical law of obligations theory and contemporary economic reality. By analyzing recent cases and doctrines, this research seeks to refresh the understanding of the boundaries of freedom of contract. According to Munawiroh and Rumawi (2023), this freedom can no longer be viewed as an absolute right but must be framed within business ethics and the prohibition of the abuse of rights (*misbruik van recht*). This updated understanding will contribute to the creation of a healthier business climate, where legal certainty is upheld not merely by defending the formalities of an agreement, but by pursuing the substance of justice in every contractual relationship.

This research aims to critically analyze the elements of bad faith that transform a breach of contract into an act of fraud in business cooperation agreements, as well as to examine its legal construction and proof. Furthermore, this research seeks to construct the legal basis and measurement parameters for material and non-material damages arising from such fraud-indicated breaches of contract. The third objective is to formulate effective legal strategies and remedies, including the formulation of lawsuits, to demand accountability from parties who commit fraudulent breaches of contract. Contributively, this study is expected to enrich the treasury of the law of obligations,

particularly regarding the boundary between breach of contract and fraud, and to provide practical guidance for legal practitioners and business actors to identify, prevent, and resolve business cooperation disputes involving deception.

RESEARCH METHOD

This research is designed in its entirety as a qualitative and normative literature study. A qualitative approach was selected as it aligns with the research objective of gaining a deep understanding of the complexity of legal phenomena, exploring meanings, and constructing an understanding of the concepts of bad faith and fraud within the framework of contract law. As stated by Strauss and Corbin (2008), qualitative research aims to develop theory grounded in data, and in legal studies, that data consists of authoritative texts. This research does not collect primary data through interviews or observations but relies entirely on secondary data. The secondary data in question consists of various existing written sources that are academically accountable. Primary sources include formal legislation such as the *Burgerlijk Wetboek* (BW) and relevant court jurisprudence, legal textbooks on the law of obligations and business ethics written by leading experts, as well as scientific articles from national and international legal journals that have undergone peer review. Source selection was conducted purposively based on criteria of thematic relevance, author authority, and the depth of analysis provided regarding the issues of breach of contract, bad faith, and fraud.

The data collection technique was carried out through systematic document studies. The researcher collected, recorded, and organized these various written sources into a coherent corpus of data. Subsequently, the analysis technique applied was qualitative content analysis as formulated by Krippendorff (2013). This analysis does not stop at word frequency counts but focuses on interpreting the content and context of texts to identify patterns, themes, and relationships between concepts. The analytical process began with repeated and in-depth reading of all collected literature sources. The next stage was coding, where units of meaning in the text were labeled based on emerging key concepts, such as "indicators of bad faith," "elements of contractual fraud," "basis for non-material damages," and "evidentiary strategies." Codes with similarities were then grouped into broader and more abstract categories, forming a structured network of understanding.

Through this qualitative content analysis, this study seeks to synthesize findings from various sources to address the established research questions.

The synthesis process was conducted by comparing, contrasting, and connecting perspectives from various legal experts, statutory provisions, and arguments in court rulings. For example, Asser's view on bad faith was confronted with Supreme Court jurisprudence to identify points of convergence or gaps between theory and practice. The validity of the analysis was ensured through data source triangulation, which involved comparing and checking the consistency of information from different types of sources, such as doctrine from textbooks, norms from legislation, and their application in court decisions. This methodological approach is considered appropriate as it allows this exploratory and interpretative research to build a solid, comprehensive, and scientifically accountable legal argument without losing the nuance and depth of the legal phenomena being studied.

RESULT AND DISCUSSION

Distinguishing and Proving Bad Faith as an Indication of Fraud in Breach of Contract

The analysis of breach of contract in business agreements demands specific attention to the distinction between negligence and fraud. Differentiating between an ordinary breach of contract and an act of fraud in a business cooperation agreement requires a deep analysis of the element of bad faith or *te kwader trouw*. This distinction rests on the presence of bad faith elements that can be traced from the pre-contractual phase through the performance stage. In Indonesian civil law, the principle of good faith as regulated in Article 1338 paragraph (3) of the *Burgerlijk Wetboek* is affirmed as a general principle that binds parties in both the creation and execution of an agreement. A violation of this fundamental principle opens the door for a sharper judicial assessment. Such an assessment no longer merely looks at whether there is a failure to fulfill an obligation, but investigates whether that failure stems from ordinary negligence or is the result of planned deceit. When a failure of performance is found to be motivated by the concealment of material facts, the provision of misleading information, or false representations intentionally made to influence the opposing party's consent, the element of bad faith becomes the key to shifting the legal qualification from a breach of contract to an act of fraud. Thus, the element of bad faith serves as the primary determinant in distinguishing a breach of contract from fraud.

The concept of defect of consent in civil law serves as an essential instrument for assessing the existence of fraud in contracts. The Indonesian civil law framework regarding defects of consent provides the precise analytical tools to evaluate the presence of *te*

kwader trouw. The validity requirements of an agreement according to Article 1320 of the *Burgerlijk Wetboek* require consent that is free from defects, including fraud (*bedrog*), duress, and mistake (*dwaling*). If an agreement is born due to deceit from one of the parties, then the agreement legally contains a defect of consent and can be requested for annulment through mechanisms regulated by law. If an agreement is made due to fraud as regulated in Article 1328 of the Civil Code namely, deceitful tactics that cause the other party to give consent that would never have been given without such fraud then the agreement is, in principle, voidable (Ariyanto, 2023). At this point, bad faith is no longer understood merely as an attitude of failing to perform an obligation in the future. Bad faith is defined as a misleading manipulation from the outset, intentionally carried out so that the other party gives their consent. Consent given under such conditions is consent that would never have been granted had the party known the actual circumstances. The legal path for the annulment of an agreement based on fraud is a specific civil mechanism that is substantively different from a lawsuit for damages based on an ordinary breach of contract as regulated in Article 1243 of the BW. The annulment of an agreement based on fraud underscores the fundamental difference between a defect of consent and a breach of contract.

The elements of fraud in a civil contract emphasize the fundamental difference between negligence and bad faith. Materially, to qualify an action within an agreement as fraud, several elements developed in doctrine and jurisprudence must be met (Munawiroh & Rumawi, 2023). These elements generally include the statement or concealment of an untrue material fact, the intention or deliberateness of the perpetrator to deceive the other party, the victim's reliance on that false representation to make a decision, and the occurrence of losses as a direct result of that reliance. Fraud through false statements primarily occurs when the false statement is made by the declarant with the intent to deceive the recipient of the statement (Ojiako, 2023). The element of bad faith is clearly identified if it can be proven that the perpetrator knew the untruthfulness of the facts presented or recklessly ignored the truth of those material facts. Nevertheless, they chose to present or hide them with the aim of obtaining contractual consent or specific economic benefits. This is what strictly distinguishes a failure committed with bad faith from mere negligence or technical errors in the execution of the agreement, which usually leads to the liability regime of a breach of contract and ordinary civil damages. The element of fraud in a contract

positions bad faith as the dividing line from an ordinary breach of contract.

Proving bad faith in a contract demands an investigation from the pre-contractual stage through the initial execution. The process of proving the existence of bad faith requires an investigative focus that is not only on the moment of final failure but especially on the pre-contractual phase and the early stages of the agreement's execution (Setiawan & Rumkel, 2021). Relevant and often determinative evidence includes all pre-contract correspondence, business proposals, promotional brochures, presentation materials, negotiation meeting minutes, as well as due diligence documents containing representations regarding financial capacity, asset ownership, license completeness, distribution networks, or market data used as the basis for calculations. If, upon examination, it is proven that these key data points were intentionally engineered, materially exaggerated, or that negative facts which should have been disclosed were hidden for the specific purpose of securing the contract, then this behavioral pattern points toward *te kwader trouw*. Further strengthening can be obtained if a repeating pattern or the same *modus operandi* carried out by the perpetrator in several similar transactions with different parties is found, which further reinforces the inference regarding systemic fraudulent intent. A focus on pre-contractual evidence and repeating patterns demonstrates how fraudulent intent can be identified systemically.

The element of intent in a breach of contract that indicates fraud can also be identified through the sharp discrepancy between the promises given and the actual actions taken immediately after the contract is signed. If, after receiving payment or access to a partner's resources, the party instead diverts funds for personal interests, carries out suspicious asset transfers, or consistently ignores agreed-upon milestones without a logical operational reason, then the failure of performance can no longer be categorized as an ordinary business risk or an unintentional inability. On the contrary, such behavior is a manifestation of bad faith intended to utilize the contractual relationship as a means of financial exploitation. In this context, proof relies not only on written documents but also on the analysis of fund flows and the chronology of actions that demonstrate a grand design to not fulfill obligations from the start. Thus, the synchronization between initial intent and post-contractual actions becomes crucial evidence in constructing a case of fraud.

Furthermore, the role of technology in the digital economy also provides a new dimension for proving

bad faith. Digital footprints, activity logs within collaborative platforms, and communications through social media or instant messaging applications can serve as vital supplementary evidence to show the presence of manipulation or concealment of information (Sulaiman et al., 2023). Irregularities or anomalies in the electronic data presented during negotiations, which are later proven false through digital forensic audits, will strengthen the argument regarding the existence of *te kwader trouw*. The use of this digital evidence allows law enforcers to reconstruct the perpetrator's intent more accurately, going beyond what is explicitly stated in formal agreement documents. Therefore, the ability to integrate conventional evidence with digital evidence becomes essential in facing planned breach of contract schemes in the modern era. The integration of digital and conventional evidence clarifies the reconstruction of bad faith in modern transactions.

The difference in evidentiary standards between civil and criminal law determines the strategy in proving bad faith. The screening of evidence in legal proceedings follows different evidentiary standards between civil and criminal law, which influences the strategy for proving bad faith. In a civil lawsuit, the evidentiary standard is the *preponderance of evidence*, or proof based on the greatest probability. A series of documents, witness testimonies, and financial forensic expert reports that corroborate each other can be considered sufficient to prove the existence of bad faith for the purposes of contract annulment and awarding damages. Meanwhile, in criminal fraud cases, the evidentiary standard rises to *beyond a reasonable doubt* (Sriwidodo, 2021). The elements of deceitful tactics and fraudulent intent must be demonstrated with more concrete and firm evidence, for example, through proof of forging official documents, manipulating financial reports, or tracing fund flows that clearly show the intent to deceive the victim. Understanding these different standards is vital for the aggrieved party to choose the most effective legal path. The difference in evidentiary standards demonstrates that the choice of legal path will significantly determine the effectiveness of rights protection.

Electronic evidence has now become a primary instrument in proving bad faith in modern contracts. The role of electronic evidence in proving bad faith is becoming increasingly crucial, especially with the explicit recognition of electronic evidence in Article 5 of Law Number 11 of 2008 concerning Electronic Information and Transactions and its amendments. Emails, instant messages, online meeting recordings, document metadata, and transaction system logs can be vital evidence proving the representations made,

unnatural changes in plans, or internal instructions to disguise the actual situation. When this chain of digital evidence shows that a party knew from the outset the untruthfulness of the data presented to its partner, the element of *te kwader trouw* becomes much easier to support. The validity and evidentiary strength of this electronic evidence are generally strengthened by digital forensic methods and strict chain of custody maintenance to guarantee its integrity. The use of electronic evidence illustrates how technology reinforces the judicial proof of the element of bad faith.

The choice of legal path in contract disputes is determined by the success of proving the elements of fraud or breach of contract. From the perspective of available legal remedies, a successfully proven distinction between an ordinary breach of contract and fraud will lead to different legal paths with different consequences (Munawiroh & Rumawi, 2023). If fraud is proven, the aggrieved party has broader options. They may demand the annulment of the contract based on a defect of consent, request the restoration of the situation to its original state, and claim compensation for all losses arising from the deceit. Under certain conditions, if the elements of the criminal act of fraud under the Penal Code are met, the victim may also report the act to the police for criminal prosecution (Sriwidodo, 2021). Conversely, if the elements of fraud cannot be met and what is proven is a breach of contract, the appropriate legal path is limited to demands for performance, rescission of the agreement due to default, or damages based on Articles 1243 and 1246 of the BW. The selection of the appropriate path heavily depends on the strength and completeness of the evidence regarding the element of bad faith. This difference in legal paths shows that the quality of evidence is the determining factor for the direction of dispute resolution.

The obligation of information disclosure serves as the primary foundation in assessing the good faith of a business partnership. The assessment of good faith is also closely related to the obligation of information disclosure in a business partnership that should be based on mutual trust. A partner who intentionally conceals a conflict of interest, a condition of severe financial incapacity, or ongoing legal violations relevant to the performance of the agreement despite being explicitly or implicitly required to disclose them during the negotiation process potentially acts in bad faith. Good cooperation governance practices, which include adequate due diligence processes, audit right clauses, inspection rights, and periodic reporting obligations, do not only function to mitigate business risks. These practices also supply systematic documentary evidence that is invaluable if a dispute

later arises and an analysis is required to distinguish whether what occurred was fraud or merely a breach of contract. Information transparency and good governance demonstrate the difference between contractual negligence and intentional fraud.

The proof of fraud in a contract demands a reconstruction of intent and behavioral patterns starting from the pre-contractual stage. Ultimately, proving *te kwader trouw* to lean toward a qualification of fraud is not merely a matter of showing that a promise was not fulfilled. The core of the proof is the reconstruction of the perpetrator's intent and behavioral patterns since the pre-contract period, which materially indicates manipulation of the other party's decision-making process. This reconstruction requires high documentation discipline from the parties, the formulation of clear and measurable representation clauses and conditions precedent, as well as reasonable verification efforts regarding information provided by potential partners. When the facts and evidence collected consistently show the presence of intentional false representations aimed at obtaining contractual benefits, the qualification of such an act as fraud becomes legally logical. Conversely, if the evidence only shows inability or unreadiness arising from reasonable business dynamics without being based on fraudulent intent from the start, then the legal path of breach of contract remains the appropriate and proportional corridor of liability. The reconstruction of intent and consistent evidence serve as the judicial basis for distinguishing fraud from breach of contract.

Construction of Material and Non-Material Damages for Fraud-Indicated Breach of Contract

The construction of damages in business contracts demands a distinction between pure breach of contract and planned fraud. Fraud occurs when one party makes misleading statements that influence another party to sign a contract, such that the consent is void and the aggrieved party is entitled to claim damages (Manap et al., 2022). The legal construction of damages for a fraud-indicated breach of contract in business cooperation agreements stems from two different yet complementary legal frameworks: the default regime in the Civil Code and the doctrines of defect of consent and torts. On one hand, the breach of contract regime as regulated in Article 1243 of the BW leads to recovery through the fulfillment of performance or payment of compensation for losses incurred. On the other hand, indications of fraud touch upon the realm of defect of agreement based on Article 1321 of the BW and torts based on Article 1365 of the BW, thereby opening a broader remedial space.

This space includes contract annulment, restitution to the original state (*restitutio in integrum*), and more comprehensive civil sanctions. For business actors, proper construction requires a careful linking between the contractual legal basis and the material facts regarding the deceit. This link is necessary to justify compensation for material losses and simultaneously for non-material losses that often emerge as a side effect of fraud in business relationships (Munawiroh & Rumawi, 2023). An integrated compensation framework demonstrates the necessity of linking contractual grounds with the facts of fraud.

The foundation of contract law serves as the starting point for assessing liability in business disputes. The first foundation is built from contract law itself, namely the validity requirements of an agreement and the legal consequences of default (Syarief, 2021). When a business partner fails to fulfill their obligations, the aggrieved party has the right to claim compensation for all costs, losses, and interest suffered, provided that the breach of contract can be proven and there are no grounds for exemption such as *force majeure*. However, if the failure of performance is preceded or accompanied by misrepresentation, data falsification, or concealment of material facts that influenced the initial consent, then the basis for imposing damages undergoes a qualitative shift. The legal basis is no longer limited to excusable negligence or incapacity as in an ordinary breach of contract. The legal basis shifts toward bad faith, which intensifies liability. In such situations, claims for contract annulment based on Article 1321 of the BW and restoration to the original state become highly relevant. These claims are filed concurrently with or as an alternative to claims for breach of contract damages, as the primary objective is to erase the agreement born of fraud and recover the losses caused. The shift in legal basis from breach of contract to bad faith demonstrates a more severe intensity of responsibility.

Material losses in contract disputes must be formulated in a measurable manner based on strong evidence. Material losses in this construction must be structured measurably, and their direct causal relationship with the fraud-indicated breach of contract must be demonstrable. The elements of material loss include what is legally referred to as actual loss (*damnum emergens*) and lost profits (*lucrum cessans*). Actual losses cover all real expenditures incurred by the aggrieved party due to their reliance on the agreement, such as production costs to fulfill orders that were later fraudulently canceled, logistics expenses, legal and technical consultation fees, and additional expenditures for emergency mitigation efforts. Lost profits include the profit margins that

should have been obtained from the partnership, other business opportunities that had to be foregone because resources were locked in the failed project, and sales declines due to disruptions in the supply chain or reputation. This calculation must be reinforced with documented accounting evidence, purchase invoices, profit and loss statements for the relevant period, and reasonable business projection models based on historical data and market conditions. A measurable approach to material losses demonstrates the direct link between contractual fraud and financial impact.

Non-material losses in contract disputes emphasize the importance of protecting intangible business assets. Beyond directly measurable financial losses, the legal construction must provide space for non-material damages. Non-material losses can be qualified when the impact of the fraud damages intangible business assets such as reputation, credibility, and goodwill built over many years, as well as causing a heavy psychological burden on business managers that tangibly affects operational continuity. In Indonesian civil practice, non-material damages tend to be more easily accepted within the framework of a tort lawsuit based on Article 1365 of the BW. However, regarding contracts tainted by fraud, the legal basis for non-material losses can also be built through the violation of the fundamental principle of good faith as regulated in Article 1338 paragraph (3) of the BW. A violation of good faith so severe that it reaches the level of fraud is considered to have injured the legal interests of the other party that are not purely economic. The proof of non-material losses is conducted through indicators showing the impact on reputation, such as the loss of major trading partners, negative media coverage, a decline in trust from regular consumers, and image recovery costs incurred. The value of the compensation must remain proportional, economically reasoned, and must not serve merely as a punishment. The scope for non-material damages demonstrates that a violation of good faith can cause losses that transcend financial aspects.

The principle of foreseeability plays a crucial role in both limiting and, in cases of fraud, expanding the scope of damages. In ordinary breach of contract as regulated under Article 1246 of the BW, damages are generally limited to losses that could be reasonably foreseen at the time the agreement was made. However, when fraud is proven, this foreseeability barrier weakens significantly. A party acting in bad faith can be held liable for broader losses that reasonably arise as a consequence of their deceit. These consequences include long-term reputational

damage and the loss of future business opportunities that may not have been specifically contemplated when the contract was signed. This weakening aligns with the evolving doctrine that deceit or fraud negates various legal protections and limitations usually granted to debtors acting in good faith. Thus, the recovery space for the victim becomes more comprehensive and is not strictly bound to the estimated loss at the time the contract was formed. The principle of foreseeability in cases of fraud demonstrates a broader and deeper scope of damages.

The handling of damages and penalty clauses depends on the applicable law, and differing principles across jurisdictions make efforts to unify enforcement standards difficult to achieve (Assaad & Malak, 2020). Penalty clauses and liquidated damages agreed upon in a contract can serve as primary tools to crystallize the value of recovery from the outset and shorten the evidentiary process. Provisions regarding fines, late interest, and liquidated damages are valid based on the principle of freedom of contract, as long as they do not conflict with law, morality, and public order, and fulfill the principle of equity. In cases involving indications of fraud, penalty clauses that specifically target misrepresentation or violations of representation and warranty clauses will strengthen the position of the aggrieved party. Such clauses allow for the collection of a specific value without having to prove in detail all actual losses that may be complex to calculate. Nevertheless, based on Article 1247 of the BW, judges retain the authority to adjust the amount of the penalty if it is proven to be disproportionate and exceeds the limits of reasonableness. Therefore, a sound contract design needs to consider a transparent and logical calculation basis for such penalty values so they can be upheld in court. Proportionally designed penalty clauses demonstrate a balance between protecting the aggrieved party and the principle of equity.

Restitution and disgorgement of profits present a different dimension of justice in business contract disputes. The disgorgement of profits is a type of contractual remedy that demands the aggrieved party receive a fair benefit, yet its use is rarer compared to other contractual remedies such as specific performance or compensation in various jurisdictions (Eakambaram, 2021). The concepts of restitution and disgorgement of profits expand the horizon of recovery, especially when fraud results in the enrichment of the perpetrator without a valid legal basis. In addition to demanding compensation based on losses suffered, the aggrieved party can request that the perpetrator return all benefits obtained from the fraudulent act. These benefits can take the form of down payments received, transfers of specific assets,

or commercial profits gained from the sale of products or services originating from the breach of contract. This construction of restitution aims to prevent the perpetrator from keeping profits resulting from fraud, so that the principle of justice which dictates that no one should unjustly enrich themselves can be upheld (Munawiroh & Rumawi, 2023). For small and medium enterprises, restitution mechanisms are vital so that cash flow can recover more quickly and business liquidity is not eroded for a prolonged period due to fraud. The restitution mechanism affirms that contractual justice encompasses the recovery of losses as well as the elimination of illegitimate gains.

The layers of time in contract dispute evidence determine the completeness of the analysis regarding the losses incurred. The determining pillar of the entire damages construction is the strength of evidence. Evidence must span three layers of time: pre-contractual, execution, and post-breach. Pre-contractual evidence in the form of proposals, correspondence, presentations, and meeting minutes serves to record initial representations regarding capacity and material facts used as the basis for the agreement (Setiawan & Rumkel, 2021). Execution evidence in the form of invoices, shipping reports, performance logs, and internal financial statements reflects the deviations in implementation from the promises made. Electronic evidence such as emails, instant messages, document metadata, and online meeting recordings play a role in strengthening the chronology of events and revealing the perpetrator's true intent. The use of financial forensic experts and independent auditors can help quantify material losses objectively. Meanwhile, expert witnesses in the fields of branding or reputation management can provide assessments regarding the magnitude of non-material losses and link them causally to the act of fraud. Comprehensive evidentiary strength ensures that material and non-material losses can be legally linked to the fraud.

The obligation to mitigate losses affirms that the victim of fraud must still act rationally when facing the impact of a contract. As a normative prerequisite that must be fulfilled, the aggrieved party is required to undertake reasonable efforts to mitigate losses. This mitigation obligation means that the victim of fraud must not allow their losses to escalate without taking rational actions to suppress the impact. For business actors, this may include efforts to immediately find alternative suppliers, halting expenditures that are no longer productive regarding the failed project, actively seeking new working partners, or executing communication campaigns to restore reputation. Failure to demonstrate adequate mitigation efforts can

be grounds for the court to reduce or even reject part of the claim for damages. Therefore, documentation of every mitigation step taken becomes an integral part of the case file, while simultaneously reinforcing the impression that the plaintiff acted rationally and responsibly. Systematic mitigation documentation demonstrates that the plaintiff attempted to reasonably and responsibly suppress losses.

The design of a civil lawsuit demands a strategy capable of combining contractual aspects with the dimension of fraud. The structure of a lawsuit in court must be designed to strategically integrate the *petitum* (prayer for relief) derived from contract law with the legal consequences of fraud. In cases with strong indications and evidence of fraud, the lawsuit can simultaneously request the annulment of the agreement based on Article 1321 of the BW, restitution for everything that has been provided, detailed material damages, non-material damages accompanied by a reasonable basis of calculation, the determination of interest and penalties in accordance with the agreement or the provisions of Article 1250 of the BW, as well as an order to cease further damaging actions. If evidence of fraud is not yet sufficient at the initial stage, the lawsuit can still be filed based on a breach of contract, focusing on the fulfillment of performance and material damages. However, during the trial process, the evidentiary path can be opened to uncover elements of bad faith that may change the qualification of the case. A flexible lawsuit strategy provides room for the court to adjust the qualification of the case according to the evidence.

The effectiveness of damages in contract disputes demands integration between legal norms and business practices. Ultimately, an effective construction of damages for fraud-indicated breaches of contract requires a disciplined legal approach to link contract norms, evidence of fraudulent intent, and measurable, accountable loss calculations. For business actors, this approach does not merely aim to recover financial losses in a narrow sense. Beyond that, it serves to strengthen business governance principles based on good faith. The application of these principles is manifested in contract designs that include clear representation and warranty clauses, proportional penalties, transparent audit and reporting mechanisms, and the readiness of documentation and electronic evidence systems. With such a design, recovery from fraud does not stop at compensation figures alone but plays a role in restoring the integrity of business relations and the capacity of the business to continue competing fairly in the market. A disciplined approach to damages affirms that recovery encompasses both financial aspects and business integrity.

Formulation of Claims and Legal Remedies in Demanding Damages for Fraud-Indicated Breach of Contract

The effectiveness of a lawsuit for damages in cases of contractual fraud depends on a structured legal strategy from the outset. Effective legal remedies to file a claim for damages over a fraud-indicated breach of contract need to be formulated with a mature strategy starting from the lawsuit planning stage. Other legal forms of fraud, such as claims for fraud and negligent misstatement, make the threat of annulment weaker compared to damages, while liability through a lawsuit is used to demonstrate that a fault has occurred (Klass, 2023). This strategy begins with a clear separation between the contractual legal corridor and the delictual (tort) legal corridor, which can then be structured cumulatively or alternatively in the lawsuit's *petitum*. This framework of thinking rests on the fundamental judicial distinction between breach of contract, which stems from a voluntary obligation relationship based on Article 1233 of the *Burgerlijk Wetboek*, and tort, which stems from a violation of general legal norms regulated in Article 1365 of the BW. Combining these two grounds for action allows the plaintiff to demand recovery based on the contract, such as performance or rescission accompanied by damages, and simultaneously expands the recovery space through the delictual regime if elements of fraud are met. The articles concerning obligations in the Civil Code, particularly Articles 1243 and 1246, serve as the foundation for claiming costs, losses, and interest due to breach of contract. Meanwhile, the delictual corridor based on Article 1365 of the BW is utilized when material misrepresentation has tainted the initial consent and caused broader losses that transcend mere failure to fulfill pure performance. The integration of contractual and delictual corridors strengthens the plaintiff's position in demanding comprehensive recovery.

The strategy for formulating the *petitum* in a civil lawsuit must be able to combine compensatory aspects with the correction of legal relationships. The formulation of the *petitum* in the claim should ideally be designed to place the request for damages alongside the request for the restoration of the *status quo* through contract annulment. This annulment is requested if a defect of consent due to deceit can be proven as regulated in Article 1321 of the BW. Judicial practice in Indonesia shows that a breach of contract lawsuit that carefully links the facts of fraud can lead to the awarding of a combination of remedies by the judge. This combination may include specific performance or rescission, followed by a restitution

order to return everything that has been provided, as well as the imposition of the obligation to pay damages. The application of civil norms in contract disputes, as represented by various district and appellate court decisions, affirms that there is space for dual compensation. This space not only provides compensation for losses suffered but also carries out a correction of the legal relationship between the parties. Thus, the construction of the lawsuit is not merely curative, but also corrective to restore the legal balance that has been damaged by bad faith. The construction of a *petitum* that unites compensation and correction affirms the dual function of a lawsuit in maintaining legal balance.

Proving contractual fraud demands a specific focus on the initial phase of the agreement and the decisive early execution. The evidentiary aspect must be specifically directed to confirm that the element of fraud was present since the pre-contractual phase or at the time of early execution of the agreement, and was not a reasonable business consequence. The strategy for compiling evidence is built by relying on representation and warranty clauses explicitly stated in the text of the agreement (Setiawan & Rumkel, 2021). This evidence is supplemented by pre-contract correspondence, business proposals, presentation materials, as well as due diligence documents showing specific claims regarding financial capacity, asset ownership, licensing completeness, or market data used as the basis for projections (Syarief, 2021). If these materials objectively show untrue statements or the concealment of material facts that could influence the other party's decision to agree to the contract, then the legal construction regarding bad faith or *te kwader trouw* can be established. Success in building this construction will shift the qualification of the case from the realm of ordinary negligence or incapacity toward the realm of intentional fraudulent intent. Further strengthening can be obtained if a repeating pattern by the perpetrator is found in similar transactions with different partners, which will reinforce the inference of malicious intent while simultaneously eroding defenses claiming that the failure was solely due to operational factors. Consistent proof from pre-contract to repeating patterns reinforces the qualification of the case as intentional fraud.

The role of electronic evidence in contract disputes is becoming increasingly prominent as a primary instrument for proving intent and chronology. Electronic evidence holds a central role in tying together the chronology of events and revealing the true intent of the parties. Evidence such as electronic mail, instant messaging conversations,

document metadata, online meeting recordings, and transaction system logs have become vital. The validity and evidentiary strength of this electronic evidence are supported by sound evidence governance, which maintains the chain of custody and, if necessary, is supplemented by digital forensic examinations by experts. The trail of evidence must be maintained so that the person who stored it can be identified and called to testify in court if necessary (D'Anna et al., 2023). Electronic evidence often becomes the decisive factor because it can refute defense narratives that rely on general arguments such as market risks or changing economic conditions. This evidence can show that from the outset, the perpetrator knew the untruthfulness of the data presented or intentionally concealed negative facts with the sole purpose of obtaining contractual benefits. The integrity of the digital track record successfully presented will accelerate and simplify the proof of the causal link between the deceitful acts and the resulting losses. The integrity of electronic evidence demonstrates the direct link between deceit and the losses suffered by the aggrieved party.

The distinction between pure breach of contract and contractual fraud depends on a systematic construction of proof. The standard of proof in Indonesian civil law demands a judge's reasoned conviction based on a series of direct and indirect evidence, factual witness testimony, and explanations from expert witnesses. In filing a lawsuit containing indications of fraud, the plaintiff needs to systematically emphasize three key elements: motive, knowledge, and reliance. The element of motive involves showing that the opposing party acted with the intent to obtain consent or payment unlawfully. The element of knowledge involves proving that the opposing party knew or should have known the untruthfulness of the representations provided. The element of reliance involves demonstrating that the plaintiff reasonably relied on those representations, thereby making business decisions that were ultimately detrimental. A construction of proof that successfully unites these three elements will strictly distinguish a case of fraud from a pure breach of contract. The judicial consequence of this successful distinction is a broader and more comprehensive remedy, as the judge will consider that the perpetrator acted in bad faith, which intensifies their liability. The integration of the elements of motive, knowledge, and reliance strengthens the judicial basis for a more comprehensive remedy.

The loss measurement methodology in contract disputes must be designed to be transparent and legally verifiable. The measurement of material

losses must be structured with a methodology that is transparent, measurable, and auditable by third parties or the court. These losses consist of two primary components. First, actual losses or *damnum emergens*, which include wasted production costs, logistics and shipping expenses, legal and technical consultation fees already incurred, and costs for emergency mitigation actions. Second, lost profits or *lucrum cessans*, which include the profit margins that should have been obtained, other business opportunities that had to be foregone, and the decline in sales due to disrupted supply chains or reputation. Lost profits represent the amount by which the assets of the aggrieved party would have potentially increased if the breach had not occurred (Nohýnková, 2022). In the breach of contract regime based on Article 1246 of the BW, costs, losses, and interest are valid components to be claimed. In cases containing indications of fraud, the limit of foreseeability as referred to in that article may undergo a loosening. This loosening is due to the consideration that a party acting in bad faith should be held responsible for all losses that reasonably arise from their deceit, even if those losses might not have been fully foreseeable at the time the contract was made. Calculations of loss must be based on historical business data, existing derivative contracts, and projection models that are reasonable and explainable, in order to meet the evidentiary threshold in civil law. Loss measurements based on historical data and reasonable projections strengthen the legitimacy of compensation claims in court.

Non-material losses in contract disputes demand a legal construction based on objective and proportional evidence. The principles for measuring non-material losses resulting from contract breaches, whether applied by courts or described in legal literature, appear inconsistent and are often based on misunderstandings (Zlatev, 2020). Meanwhile, the construction for non-material losses is developed through proof of the fraud's impact on measurable business reputation and goodwill. This impact can take the form of losing major trading partners or loyal customers, the emergence of negative media coverage affecting public perception, a decline in trust from consumers, and image recovery costs such as crisis communication campaigns and service improvements. Although non-material compensation is more commonly awarded within the framework of a tort lawsuit, a contract tainted by deceit opens a space for recovery based on the violation of the fundamental principle of good faith as mandated by Article 1338 paragraph (3) of the BW. The basis for this non-material damage claim must be tied to objective

evidence, such as customer satisfaction survey results before and after the incident, marketing analytics data showing a decrease in traffic or sales conversion, and testimonials from key stakeholders. The purpose of presenting this objective evidence is to ensure that the compensation value determined by the judge is proportional to the actual loss and does not shift into a form of mere punishment, which is not regulated in civil law. Objective data-based proof ensures that non-material compensation remains proportional and consistent with civil law principles.

Penalty clauses in business contracts serve as instruments for legal certainty and evidentiary efficiency. Well-designed contractual instruments, such as penalty clauses and liquidated damages, can strengthen recovery certainty and shorten the evidentiary process. Clauses specifically targeting breaches of representations and warranties provide a pre-agreed benchmark for the compensation value. The existence of such clauses reduces the plaintiff's burden to prove in detail the magnitude of actual losses, which may be complex. However, based on Article 1247 of the BW, the court retains the authority to assess the proportionality of the penalty clause. Therefore, the design of penalty values in a contract must be linked to accountable objective metrics, such as promised transaction volumes, the duration of the breach, and reasonable estimates of commercial impact. With a clear link, penalty clauses have a greater chance of being upheld in court even if the opposing party objects to the established amount. Penalty designs based on objective metrics increase the legitimacy of the clause and strengthen its durability in court.

The procedural efficiency of a civil trial depends on procedural compliance starting from the formulation of the lawsuit. Procedurally, filing a lawsuit demands compliance with the applicable provisions of civil procedural law. This includes the preparation of the *posita* or *fundamentum petendi*, which clearly separates and outlines the contractual and delictual grounds of the claim. Additionally, the plaintiff must prepare all planned evidence in a neatly indexed document bundle and select the appropriate relative and absolute competence of the court according to the domicile of the parties or the place of the agreement's execution (Setiawan & Rumkel, 2021). The formulation of the *petitum* must be designed to allow for various alternative rulings, such as contract annulment, restitution, payment of material and non-material damages, and legal interest. In certain situations, an application for a security seizure (*sita jaminan*) is filed concurrently to secure the execution of the judgment in the future, preventing the opposing

party from transferring or hiding their assets. Sound filing practices emphasize the importance of systematically and coherently outlining legal elements, supporting evidence, and loss calculations, so that the trial process can run efficiently and not be hindered by formality issues. Consistent procedural compliance strengthens the legitimacy of the lawsuit and minimizes formal obstacles during the trial.

Jurisprudential analysis shows how courts distinguish misrepresentation from mistake in contract disputes. Misrepresentation occurs when facts are presented incorrectly, while a mistake arises from a misunderstanding of information that is actually correct (Awarab, 2023). Contemporary jurisprudence in handling contract disputes provides valuable guidance on the proper application of civil norms. Various court rulings, including those at the cassation level, show that the court provides space for broader compensation and contract annulment if the facts of the trial confirm a breach of obligation colored by indications of fraud. Plaintiffs who successfully present a strong chain of evidence regarding false representations, clear causal relationships, and losses measured by acceptable methods generally obtain more comprehensive remedies compared to ordinary breach of contract lawsuits. This pattern of rulings affirms a principle that the law must not remain passive toward fraud masquerading as a breach of contract. This principle simultaneously emphasizes the importance of disciplined lawsuit design and an integrated evidentiary strategy from the earliest stages of dispute management. With the support of jurisprudence, a disciplined lawsuit is capable of uncovering contractual fraud and expanding the space for recovery.

The effectiveness of a lawsuit for damages in cases of contractual fraud depends on evidence governance and precise calculation. Ultimately, the effectiveness of a claim for damages over a fraud-indicated breach of contract is largely determined by the quality of evidence governance and the accuracy of the loss calculation, not merely by the narrative of the injustice experienced. For business actors, this preparation requires discipline in maintaining neat pre-contract and contract execution archives, the adoption of protective contract clauses such as representation, warranty, penalty, and audit right clauses, as well as the readiness to activate experts such as forensic accountants and branding specialists if necessary. These experts play a role in quantifying material and non-material losses using approaches that can be scientifically defended in court. With a request framework that strategically combines contractual and delictual regimes, supported by

fulfillment of strict evidentiary standards, a claim for damages can move from a mere claim to an executable court judgment. Rulings like this aim not only to restore cash flow and business reputation but also, in the end, to restore the fundamental integrity of the business relationship itself, by affirming that good faith is a non-negotiable principle. Through disciplined evidence governance, a claim for damages transforms into an instrument for restoring business integrity.

CONCLUSION

Based on the normative literature review conducted, it can be concluded that a breach of contract indicating fraud in business cooperation agreements is a complex legal construction, blending the regime of breach of contract with elements of bad faith (*te kwader trouw*) leading to fraud. This research demonstrates that the distinction between an ordinary breach of contract and fraud lies in the existence of a subjective element in the form of fraudulent intent, which can be traced back to the pre-contractual phase, manifested through material misrepresentation, concealment of facts, or deliberate empty promises. Legally, this shifts the basis of liability from a mere breach of promise under Article 1243 of the *Burgerlijk Wetboek* (BW) toward the realm of defects of consent (Article 1321 BW) and unlawful acts (Article 1365 BW). The resulting construction of damages becomes broader, encompassing not only the recovery of material losses (*damnum emergens* and *lucrum cessans*) but also non-material losses for damaged reputation and goodwill, especially when a causal link to the deceptive tactics is successfully proven. Effective legal remedies require the formulation of a lawsuit that strategically combines contractual and delictual grounds, supported by a comprehensive evidentiary strategy regarding bad faith and measurable, auditable loss assessments.

The findings of this research carry important implications for several groups. For business actors, particularly within cooperation structures, this study implies the need for high vigilance and in-depth due diligence before entering into a contract. Representation and warranty clauses, as well as audit mechanisms, must be strictly formulated to create strong initial evidence. For legal practitioners and law enforcement, the implication lies in the need for sensitivity and sharp analytical skills to differentiate between an ordinary breach of contract and one indicating fraud. Judges are required not only to look at the fact of the broken promise but also to trace the motive and pre-contractual chronology to uncover

bad faith. For the development of the law of obligations, this research implies the need for a more progressive interpretation of the principle of good faith (Article 1338 paragraph (3) BW) as an active instrument to combat contractual deception, while strengthening arguments regarding non-material compensation in business contract disputes involving elements of fraud.

Based on these conclusions and implications, several recommendations are proposed. First, business actors are advised to implement strict document management and contractual communication, including archiving all electronic evidence and pre-contractual correspondence, and considering the use of specific liquidated damages clauses for breaches of representation. Second, for regulators and professional associations, it is recommended to formulate guidelines or standard contract templates for business cooperation that include mandatory clauses regarding due diligence, disclosure of material information, and rapid dispute resolution mechanisms if fraud is indicated. Third, for legal education institutions and judicial training centers, it is suggested to incorporate case studies on proving bad faith and contractual fraud into the curriculum to enhance the capacity to handle increasingly complex business disputes. Further research is also recommended to empirically examine the application of the *piercing the corporate veil* doctrine in cases of contractual fraud by legal entities, to prevent the misuse of legal entities as a shield against civil and criminal liability.

REFERENCES

- Ariyanto, A. (2023). Regulation of Fraud in Civil Code: A Comparative Study Between the Indonesian Civil Code and Netherlands Nieuw Burgerlijk Wetboek. *Jurnal Penelitian Hukum De Jure*, 23(4), 455-472.
- Arrosyid, M., Darmawan, D., & Saputra, R. (2024). Legal Protection of Workers in Labor Criminal Offenses: A Case Study on Outsourcing Companies. *International Journal of Service Science, Management, Engineering, and Technology*, 6(1), 25-34.
- Assaad, R., & Abdul-Malak, M. A. (2020). Legal Perspective on Treatment of Delay Liquidated Damages and Penalty Clauses by Different Jurisdictions: Comparative Analysis. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 12(2), 1-14.
- Awarab, M. (2023). A Critical Appraisal of the Principles Relating to Mistake and Misrepresentation as Factors Affecting Consensus in Contractual Agreements in the Namibian Context: Discussion Through the use of Examples. *Obiter*, 44(2), 348-365.
- D'Anna, T., Puntarello, M., Cannella, G., Scalzo, G., Buscemi, R., Zerbo, S., & Argo, A. (2023). The Chain of Custody in the Era of Modern Forensics: From the Classic

- Procedures for Gathering Evidence to the New Challenges Related to Digital Data. *Healthcare*, 11(5), 634-644.
- Da Silva, E. B., Darmawan, D., & Irfan, M. (2022). Understanding Social Contracts: Formal Agreements in Business Practice. *Studi Ilmu Sosial Indonesia*, 2(1), 127-144.
- Darmawan, D. (2022). Environmental Accountability through Business Ethics, Responsibility, Morals and Legal Obligations, *Bulletin of Science, Technology and Society*, 1(2), 1-6.
- Darmawan, D., & Marsal, A. P. . (2024). Legal Implications And Protection Certainty On Piece Work Contracts In Indonesia. *Studi Ilmu Sosial Indonesia*, 4(2), 113-128.
- Eakambaram, S. (2021). Disgorgement of Profits as a Restitutionary Contractual Remedy. *Internasional Journal of Law Management & Humanities*, 4(2), 2769-2779.
- Hariani, M. (2023). Unleashing Organizational Commitment: Unravelling the Impact of Contract Worker Competence, Leadership, and Organizational Culture. *International Journal of Service Science, Management, Engineering, and Technology*, 3(1), 11-16.
- Irfansyah, M. F., Darmawan, D., & Hardyansah, R. (2024). Implementation of the Principle of Good Faith in Contract Performance. *Bulletin of Science, Technology and Society*, 3(2), 51-56.
- Jakariya, J., Hardyansah, R., & Darmawan, D. (2024). The Impact of the Job Creation Law on the Protection of Wages for Fixed-Term Employment Workers (PKWT). *Bulletin of Science, Technology and Society*, 3(2), 17-22.
- Klass, G. (2023). Misrepresentation and Contract. In *Research Handbook on the Philosophy of Contract Law*. Edward Elgar Publishing Limited, UK.
- Krippendorff, K. (2013). *Content Analysis: An Introduction to Its Methodology* (3rd ed.). Sage Publications, Thousand Oaks.
- Manap, N. A., Ahmad, A. A., Mohamad, M. N., & Adnan, A. M. (2022). Remedy for Misrepresentation in Contracts: An Analysis Approach in Malaysian and Australian Law. *Journal of Academic Research in Business and Social Sciences*, 12(11), 1871-1887.
- Maulani, A., R. Hardyansah, D. Darmawan, C. N. Mendonca, & A. de Jesus Isaac. (2023). Juridical Analysis of the Validity of Electronic Contracts Made by Artificial Intelligence in Indonesian Law, *Journal of Social Science Studies*, 3(1), 139 - 144.
- Munawiroh, A., & Rumawi, R. (2023). Analysis of Fraud as a Violation of Business Ethics from a Positive Legal Perspective in Indonesia. *Asia Pacific Fraud Journal*, 8(1), 49-55.
- Neuman, W. L. (2011). *Social Research Methods: Qualitative and Quantitative Approaches* (7th ed.). Pearson, Boston.
- Nohýnková, B. (2022). Calculation of the Lost Profit in Business Damage Cases. *European Financial and Accounting Journal*, 17(1), 25-44.
- Nugraha, B. E. C., Arifin, S., & Darmawan, D. (2024). Legal Basis for the Protection of Workers' Rights and Employment Contracts in the Startup Ecosystem of the Flexible Work Era. *Journal of Social Science Studies*, 4(1), 43-50.
- Ojiako, U. (2023). Misrepresentations and Criminal Liability in Project Reporting: A Case Study of the Failed Virgil C. Summer Project. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 15(3), 1-36.
- Republik Indonesia. (1847). *Kitab Undang-Undang Hukum Perdata (KUHP/Perdata/Burgerlijk Wetboek)*. Staatsblad Tahun 1847 Nomor 23. Sekretariat Negara. Jakarta.
- Republik Indonesia. (1915). *Kitab Undang-Undang Hukum Pidana (KUHP/Netboek van Strafrecht)*. Staatsblad Tahun 1915 Nomor 732. Sekretariat Negara. Jakarta.
- Republik Indonesia. (2008). *Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik sebagaimana telah diubah dengan Undang-Undang Nomor 19 Tahun 2016*. Lembaran Negara Republik Indonesia Tahun 2008 Nomor 58, Tambahan Lembaran Negara Republik Indonesia Nomor 4843. Sekretariat Negara. Jakarta.
- Saktiawan, P., R. Hardyansah, D. Darmawan, & A. R. Putra. (2021). Ethical Principles in Indonesian Legal Advocacy: Sustaining Justice in Adversarial Systems Through Professional Integrity, *Journal of Social Science Studies*, 1(2), 239 - 244.
- Setiawan, C. E., Suwanti, S., & Rumkel, N. (2021). Analysis of Fraud in Civil on Agreements Resulting in Default. *Journal of Social Science*, 2(6), 760-770.
- Sriwidodo, J. (2021). The Significance of Agreements that are Qualified as Fraud Crime. *Cepalo*, 5(1), 11-22.
- Strauss, A., & Corbin, J. (2008). *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (3rd ed.). Sage Publications, Thousand Oaks.
- Sulaiman, M., Pakpahan, N. H., & Putra, A. R. (2023). Analysis of the Validity and Effectiveness of Electronic Contracts in Legal Protection of Digital Transactions in Indonesia. *Journal of Social Science Studies*, 3(1), 41-46.
- Syarief, E. (2021). Default and the Crime of Fraud in Business Contract in Indonesian Laws. *Journal of Law Policy & Globalization*, 107, 17-21.
- Terubus, T., Khayru, R. K., Hambodo, T., Sudjai, S., & Darmawan, D. (2024). Effectiveness of The Job Creation Law to Guarantee Contract Workers' Rights. *Legalis et Socialis Studiis (L355)*, 2(3), 9-17.
- Wibowo, A. S., D. S. Negara, A. P. Marsal, E. B. Da Silva. (2021). Contractual Instruments' Effectiveness in Preventing Business Disputes and Ensuring Business Law Stability, *Journal of Social Science Studies*, 1(2), 209 - 214.
- Zlatev, Z. (2020). Quantification of Damages for Non-Pecuniary Losses Deriving from Breach of Contract. *Legal Studies*, 40(4), 548-564.

***Santoso, S. Waskito, K. Wijaya, N. H. Pakpahan, & F. Dirgantara. (2024). Legal Construction of Breach of Contract Indicating Fraud in Business Cooperation Agreements, *Journal of Social Science Studies* 4(2), 319 - 332.**