

# SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING  
100 NORTH NINTH STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-2259

## **Granted Appeal Summary**

### **Case**

UNDER WILD SKIES, INC. v. NATIONAL RIFLE ASSOCIATION OF AMERICA  
(Record Number 240683)

### **From**

The Court of Appeals of Virginia.

### **Counsel**

T. Wayne Biggs, Clifford Clapp, Skyler Peacock, and Gershom Young (Dycio & Biggs) for appellant.

James W. Hundley and Robert H. Cox (Briglia Hundley) and William A. Brewer (pro hac vice) (Brewer, Attorneys & Counselors) for appellee.

### **Assignments of Error**

1. The Court of Appeals erred in affirming the trial court's decision to reject Appellant's proposed Jury Instruction No. 21, regarding the doctrine of reasonable assurances, after finding that Appellant failed to show that the proffered instruction was a correct statement of the law in Virginia because no Virginia authority has recognized the doctrine of reasonable assurances. The doctrine is part and parcel of anticipatory breach claims and should be [sic] have been recognized by the Court of Appeals. The Court of Appeals, in essence, failed to rule on the question of whether or not the doctrine of reasonable assurances is recognized in Virginia as it relates to executory contracts for services.
2. As to Count III of Appellant's Complaint (Anticipatory Breach), the trial court committed reversible error by rejecting Appellant's proposed Jury Instruction No. 21 and refusing to instruct the jury that, on a claim for anticipatory breach of contract, the non-breaching party may treat as a repudiation of the contract the breaching party's failure to provide, within a reasonable time, adequate assurance of due performance upon reasonable demand by the non-breaching party, as Appellant's proposed instruction correctly stated the law and was supported by more than a scintilla of evidence.
3. As to Count IV of Appellant's Complaint (Anticipatory Breach), the trial court committed reversible error by rejecting Appellant's proposed Jury Instruction No. 21 and refusing to instruct the jury that, on a claim for anticipatory breach of contract, the non-breaching party may treat as

a repudiation of the contract the breaching party's failure to provide, within a reasonable time, adequate assurance of due performance upon reasonable demand by the non-breaching party, as Appellant's proposed instruction correctly stated the law and was supported by more than a scintilla of evidence.

4. As to Count III of Appellant's Complaint (Anticipatory Breach), the trial court committed reversible error when it denied a Motion to Set Aside Verdict and for New Trial Jury [sic] as to Instruction No. 21, as Appellant's proposed instruction correctly stated the law and was supported by more than a scintilla of evidence.

5. As to Count IV of Appellant's Complaint (Anticipatory Breach), the trial court committed reversible error when it denied a Motion to Set Aside Verdict and for New Trial Jury [sic] as to Instruction No. 21, as Appellant's proposed instruction correctly stated the law and was supported by more than a scintilla of evidence.