

**13-841. Prevention; excuse for nonperformance.**

A party to a contract who prevents the other party from performing a contractual obligation cannot take advantage of the non-performance. The party prevented from performing is excused from the obligation to perform.

USE NOTES

This instruction is to be used where one party prevents either fulfillment of a condition precedent to performance or performance itself. The instruction should be modified if a party contends that it was wrongfully hindered, as opposed to prevented, from performing.

[Adopted, effective November 1, 1991; as amended by Supreme Court Order No. 20-8300-006, effective for all cases pending or filed on or after December 31, 2020.]