

Alice Sullivan, a professional entertainer, met with Dr. James O'Connor concerning the shape of her nose in the fall of 1950. She explained to Dr. O'Connor that she was an actress, and that she anticipated she would have great success as a movie actress. An executive at MGM studios had told her, she revealed, that the only thing keeping her from being a leading actress was the shape of her nose. Dr. O'Connor, a plastic surgeon, agreed to perform two operations on her nose to make it more attractive. Dr. O'Connor promised Ms. Sullivan that her nose would look like the nose of actress Hedy Lamar.



Hedy Lamar—actress and inventor

So certain was Ms. O'Connor of her future success, that she added a paragraph to the consent for surgery form that Dr. O'Connor had her sign. The paragraph, which her agent helped her to draft, read:

Liquidated Damages: Dr. O'Connor acknowledges that in the event of contract breach, determination of Ms. Sullivan's future lost income will be difficult. Dr. O'Connor therefore agrees that in the event of breach, he will pay to Ms. Sullivan the sum of \$300,00 for the year 1952, increasing by \$200,000 per year for a total of 20 years through 1971, when Ms. O'Connor's acting career would be expected to end.

Ms. O'Connor paid \$5,700 to Dr. O'Connor and \$5,000 to the surgical center. Dr. O'Connor performed the two surgeries. The surgery failed to improve Ms. O'Connor's nose. She looked worse.

After the first two unsuccessful surgeries, O'Connor performed a third surgery that failed to correct Sullivan's disfigurement. After the third surgery, she had a concave line to about the midpoint at which point her nose became bulbous, flattened, broadened, and asymmetrical. Further surgeries will not improve her appearance.

Evaluate Ms. O'Connor's damages claim completely including her expectation, reliance, and restitution claims as well as enforcement of the liquidated damages clause and her opportunity to seek specific performance of Dr. O'Connor's promise.