

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS

New Excavating Technology, Inc. v. Love’s Travel Stops & Country
Stores, Inc.

New Excavating Technology · No. No. 3:25 C 50422 · Decided March 31, 2026

SUMMARY

The United States District Court for the Northern District of Illinois denied cross-motions for summary judgment in a breach-of-contract dispute involving construction of a wastewater treatment plant. The court held that factual disputes existed concerning whether Love’s accepted New Excavating Technology’s proposal and whether the proposal contained sufficiently definite material terms to form an enforceable contract under Illinois law.

CASE DETAILS

COURT	United States District Court for the Northern District of Illinois
WRITING FOR THE COURT	Rebecca R. Pallmeyer
JURISDICTION	United States District Court for the Northern District of Illinois
DECIDED	March 31, 2026
DOCKET	No. 3:25 C 50422
DISPOSITION	other
PROCEDURAL POSTURE	Cross-motions for summary judgment in a diversity action involving claims for breach of express contract, breach of implied contract, promissory estoppel, and unjust enrichment.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. The court views the facts and draws reasonable inferences in favor of the nonmoving party, does not weigh evidence or make credibility determinations, and requires affirmative evidence sufficient for a reasonable jury to return a verdict for the nonmoving party.
PRECEDENTIAL VALUE	Unknown; memorandum opinion and order from a federal district court.

PARTIES

New Excavating Technology, Inc. v. Love's Travel Stops & Country Stores, Inc.

TOPICS

contracts

construction law

summary judgment

breach of contract

civil procedure

PRACTICE AREAS

contracts

construction law

commercial litigation

civil procedure

QUESTIONS PRESENTED

1. Whether the Proposal constituted a binding express contract under Illinois law.
2. Whether factual disputes concerning acceptance, mutual assent, the circumstances of the signature, and the oral notification of acceptance precluded summary judgment on the express-contract claim.
3. Whether the Proposal contained sufficiently definite material terms to establish an enforceable contract.
4. Whether NET's failure to construct the wastewater treatment plant barred its breach-of-contract claim after Love's allegedly repudiated the agreement.
5. Whether NET's implied-in-fact contract claim failed because the parties had not agreed on sufficiently definite material terms, including price and specifications.
6. Whether Love's was entitled to summary judgment on NET's promissory-estoppel claim for lack of an unambiguous promise.
7. Whether NET's unjust-enrichment claim could proceed under a quasi-contract or contract-implied-in-law theory despite summary judgment on the implied-in-fact contract theory.

HOLDINGS

1. Summary judgment was inappropriate because a reasonable jury could find either that Love's accepted the Proposal or that the signed Proposal was merely an exhibit to a counteroffer containing materially different terms.
2. Love's was not entitled to summary judgment on the ground that the Proposal lacked essential terms because a reasonable jury could find that its detailed wastewater-treatment specifications and stated price were sufficiently definite.
3. NET's failure to build the wastewater treatment plant did not bar its breach-of-contract claim because Love's allegedly repudiated the agreement before construction began.
4. Love's was entitled to summary judgment on the implied-in-fact contract claim because NET identified no agreement on essential terms, including price and specifications.
5. Love's was not entitled to summary judgment on the promissory-estoppel claim because the evidence could support a finding that Love's made an unambiguous promise.

6. Love's was not entitled to summary judgment on the unjust-enrichment claim because NET could potentially recover under a quasi-contract, or contract-implied-in-law, theory even though the implied-in-fact contract theory failed.

KEY QUOTATIONS

"The existence of a contract, its terms, and the parties' intent are questions of fact to be determined by a trier of fact."

"Thus, the court holds that this factual dispute precludes summary judgment for either party."

"Because these "material terms are left unresolved," there is "no enforceable contract.""

FACTUAL BACKGROUND

Love's engaged New Excavating Technology to perform work related to a wastewater treatment plant planned for a new travel stop in Monroe Center, Illinois. NET sent Love's a Proposal for approximately \$1.38 million, and a Love's construction manager signed the Proposal's Acceptance section through DocuSign, but the signed document was later transmitted to NET as an exhibit to Love's different Standard Agreement, which was never signed. The parties continued negotiating price and payment terms until Love's informed NET that it was terminating the deal and selecting another contractor. The evidence was disputed concerning whether Love's orally notified NET that the Proposal had been accepted and whether the Proposal was intended to be binding.

PROCEDURAL HISTORY

New Excavating Technology filed suit in the Central District of Illinois after Love's allegedly terminated negotiations and hired another contractor for a wastewater treatment plant project. The case was transferred to the Northern District of Illinois because the relevant events occurred in Ogle County. Both parties moved for summary judgment, principally disputing whether a written Proposal constituted a binding contract.

DISPOSITION

other

CASES CITED

- Johnson v. Edwards, 164 F.4th 1074, 1079 (7th Cir. 2026)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 256-57 (1986)
- Waukegan Potawatomi Casino, LLC v. City of Waukegan, 128 F.4th 871, 873 (7th Cir. 2025)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986)
- Flowers v. Kia Motors Finance, 105 F.4th 939, 946 (7th Cir. 2024)
- National Product Workers Union Insurance Trust v. Cigna Corp., 665 F.3d 897, 901 (7th Cir. 2011)
- Gociman v. Loyola University of Chicago, 41 F.4th 873, 883 (7th Cir. 2022)
- Campos v. Tubi, Inc., 716 F. Supp. 3d 623, 630 (N.D. Ill. 2024)

- Midland Hotel Corp. v. Reuben H. Donnelley Corp., 118 Ill. 2d 306, 314, 113 Ill. Dec. 252, 256, 515 N.E.2d 61, 65 (Ill. 1987)
- Rose v. Mercedes-Benz USA, LLC, 167 F.4th 975, 978 (7th Cir. 2026)
- Sgouros v. TransUnion Corp., 817 F.3d 1029, 1034 (7th Cir. 2016)
- Carey v. Richards Building Supply Co., 367 Ill. App. 3d 724, 727, 305 Ill. Dec. 492, 495, 856 N.E.2d 24, 27 (2d Dist. 2006)
- Arbogast v. Chicago Cubs Baseball Club, LLC, 2021 IL App (1st) 210526, 194 N.E.3d 534, 542 (1st Dist. 2021)
- PFT Roberson, Inc. v. Volvo Trucks North America, Inc., 420 F.3d 728, 732 (7th Cir. 2005)
- Finnin v. Bob Lindsay, Inc., 366 Ill. App. 3d 546, 548-49, 852 N.E.2d 446, 448-49, 304 Ill. Dec. 196, 198-99 (3d Dist. 2006)
- Venture Associates Corp. v. Zenith Data Systems Corp., 987 F.2d 429, 432 (7th Cir. 1993)
- Skyrise Construction Group, LLC v. Annex Construction, LLC, 956 F.3d 950, 953-57 (7th Cir. 2020)
- Kass v. PayPal, Inc., 75 F.4th 693, 701 (7th Cir. 2023)
- Freeland v. Lorenzini & Associates, Ltd., No. 19 C 07888, 2024 WL 3251584, at *8 (N.D. Ill. July 1, 2024)
- In re Broiler Chicken Antitrust Litigation, 167 F.4th 430, 439-40 (7th Cir. 2026)
- Yash Venture Holdings, LLC v. Moca Financial, Inc., 116 F.4th 651, 657-58 (7th Cir. 2024)
- Business Systems Engineering, Inc. v. International Business Machines Corp., 547 F.3d 882, 888-90 (7th Cir. 2008)
- Kalsi Builders, Inc. v. National City Mortgage, No. 2-10-0499, 2011 WL 10453219, at *6-7 (2d Dist. June 27, 2011)
- PML Development LLC v. Village of Hawthorn Woods, 2023 IL 128770, ¶ 50, 470 Ill. Dec. 367, 379, 226 N.E.3d 1163, 1175 (Ill. 2023)
- Marcatante v. City of Chicago, 657 F.3d 433, 440 (7th Cir. 2011)
- Central DuPage Hospital Association v. Blue Cross & Blue Shield of Massachusetts, Inc., No. 22-CV-01194, 2023 WL 7003431, at *2 (N.D. Ill. Oct. 24, 2023)
- Halloran v. Dickerson, 287 Ill. App. 3d 857, 867-68, 223 Ill. Dec. 323, 331, 679 N.E.2d 774, 782 (5th Dist. 1997)
- Seiden Law Group, P.C. v. Segal, 2021 IL App (1st) 200877, ¶¶ 17, 31, 460 Ill. Dec. 801, 809, 202 N.E.3d 343, 351 (1st Dist. 2021)
- Matthews v. Chicago Transit Authority, 2016 IL 117638, ¶ 93, 51 N.E.3d 753, 779-80, 402 Ill. Dec. 1, 27-28 (Ill. 2016)
- Reitman v. Evanston/Skokie Community Consolidated School District 65, 764 F. Supp. 3d 717, 730 (N.D. Ill. 2025)
- Toulon v. Continental Casualty Co., 877 F.3d 725, 742 (7th Cir. 2017)
- Saletech, LLC v. East Balt, Inc., 2014 IL App (1st) 132639, ¶ 36, 386 Ill. Dec. 420, 432, 20 N.E.3d 796, 808 (1st Dist. 2014)
- People ex rel. Hartigan v. E & E Hauling, Inc., 153 Ill. 2d 473, 497, 180 Ill. Dec. 271, 283, 607 N.E.2d 165, 177 (Ill. 1992)

- iMotorsports, Inc. v. Vanderhall Motor Works, Inc., 2022 IL App (2d) 210785, ¶ 32, 224 N.E.3d 221, 231, 469 Ill. Dec. 349, 359 (2d Dist. 2022)

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