

## Product Liability: Warranties and Strict Liability

---

---

---

---

---

---

---

## Warranties and Product Liability

- Warranty of Title
  - Express Warranties
  - Implied Warranties
    - Merchantability
    - Fitness for a particular purpose
- Disclaimer
- Limitation or Modification

---

---

---

---

---

---

---

## Product Liability

- Tort Based Causes of Action
  - Negligence
  - Strict Liability
- Contract Cause of Action
  - Warranty

---

---

---

---

---

---

---

### Warranty of Title

- Title is good, transfer rightful
- Goods are not subject to security interest, other than those which buyer knew about
- Can be disclaimed-Judicial sale; foreclosure
- Buyer has cause of action against seller of goods for which seller had only “void title”

---

---

---

---

---

---

---

### Express Warranties

- Affirmation of fact or promise
- Made by seller
- Relates to goods
- Becomes part of the basis of bargain
- Description-warranty that all goods conform to that description
- Sample or model: whole of goods conform to the sample or model

---

---

---

---

---

---

---

### Implied Warranty of Merchantability

- Merchant seller
- Fit for ordinary purposes

---

---

---

---

---

---

---

### Implied Warranty of Fitness

- Any seller
- Knowledge of the seller
- Reliance on the part of the buyer
- Fit for purpose, which may be different from ordinary purpose

---

---

---

---

---

---

---

### Disclaimers I

- Does not apply to express warranties
- Merchantability
  - Use that word
  - If in writing, conspicuous
- Fitness
  - Writing
  - Conspicuous

---

---

---

---

---

---

---

### Disclaimers II

- No warranties as to conditions that buyer knew or should have known about, when there is an inspection, or buyer refused to inspect
- AS IS
- WITH ALL FAULTS

---

---

---

---

---

---

---

## Limitations of Remedies

- Repair
- Replace
- May be unconscionable
- Or, may fail of its essential purpose

---

---

---

---

---

---

---