



Fraud

Eric E. Johnson

ericejohnson.com



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Fraud

The basics:

Fraud is a tort cause of action.

The UCC generally does not preempt tort causes of action, and it definitely doesn't preempt suits for fraud.

You can sue for fraud in tort and under the UCC for breach of warranty and/or breach of contract all at the same time! None precludes any of the others.

Fraud and Warranties

An action for fraud and a breach-of-warranty action are two different actions.

Do not fool yourself into thinking that because there must be a remedy, that remedy must necessarily be one for breach of warranty.

Fraud law often picks up where warranty law leaves off, filling in voids and providing a path to a remedy where warranty will not.

Remember that there is no reason that you cannot, in the appropriate circumstance, have liability for fraud and for warranty breach at the same time.

Fraud

The Elements:

1. Material misrepresentation by defendant
2. Scierter
 - (at least recklessness; i/o/w, it's a lie)
3. Intent to induce reliance
4. Causation
 - (victim must be deceived; actual reliance)
5. Justifiable reliance
6. Damages