Limitations on remedies are different from disclaimers of warranties. The disclaimer of warranty attempts to prevent a warranty right from being created. A contractual limitation on remedies attempts to limit the recovery a consumer can seek when an existing warranty has been breached. Common limitation of remedies clauses limit the consumer’s remedy to repair or replacement, and waive any right to consequential or even direct damages.

Chapter 9 [1], infra, details ten ways a consumer can avoid a contractual limitation of remedies clause. When a consumer cannot avoid such a limitation under a UCC or Magnuson-Moss claim, an alternative is to bring a UDAP, fraud, strict liability, or negligence action, if available. Such claims will be unaffected by the contractual limitation of remedies because they are not based on the contract. 458 Most lemon laws also enable a consumer to force the manufacturer to provide a refund after a certain number of unsuccessful repair attempts. 459

Footnotes


459 [426] See § 14.2 [4], infra.

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Links
[1] https://library.nclc.org/nclc/link/CWL.09
[2] https://library.nclc.org/nclc/link/CWL.11.01.01