The consumer can also sue the seller for actual damages, whether or not the consumer has canceled the sale. The consumer may seek incidental and consequential damages.\footnote{471}

Attorney fees are not recoverable under UCC Article 2 or for tort claims, although they are under the Magnuson-Moss Warranty Act for breach of written and implied warranties and service contracts.\footnote{472} In most states, fees are recoverable under the state UDAP statute as well.\footnote{473} Attorney fees in lease transactions can also be recovered based on an Article 2A unconscionability claim.\footnote{474} Many state lemon laws also offer attorney fees.

Punitive, multiple, and minimum damages are usually not recoverable under the UCC or the Magnuson-Moss Warranty Act. Such damages are available in some states under the state UDAP statute, and punitive damages should be available in a fraud or even a negligence action.\footnote{475}

New car lemon laws provide their own unique remedial scheme for defects discovered in the first year or two of a new car purchase.\footnote{476} Typically, the manufacturer makes a number of repair attempts. If these are unsuccessful, the manufacturer must refund the purchase price or replace the vehicle. Disputes over this remedy are generally first heard by an informal dispute resolution mechanism.\footnote{477} The consumer, either under the lemon law, the UCC, or Magnuson-Moss, can also recover damages.

**Footnotes**

471 \footnote{438} See § 10.5 [1], infra.

472 \footnote{439} See § 10.7 [2], infra.

473 \footnote{440} See § 11.1.1 [3], infra.

474 \footnote{441} See § 21.2.6 [4], infra.

475 \footnote{442} See §§ 11.1 [5], 12.1 [6], infra.

476 \footnote{443} See § 14.2 [7], infra.

477 \footnote{444} See § 14.2.9 [8], infra.

**Source:** National Consumer Law Center, Consumer Warranty Law [5th ed.], updated at www.nclc.org/library

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**Links**

[1] https://library.nclc.org/nclc/link/CWL.10.05
[3] https://library.nclc.org/nclc/link/CWL.11.01.01