CH 20 – Product Liability

* Express Warranty- may be created if 1. An affirmation of fact or promise regarding goods becomes basis of the bargain. 2. Any description of the goods that is part of basis of the bargain. 3. A sample or model of goods sold creates an express warranty that goods will be similar
* Advertisements- may be warranty or sales talk.
* Implied warranty of merchantability- created by operation of law not seller’s statements. UCC Regulations: 1) pass without objection in the trade. **2)** fit for ordinary purpose of good. 3) be of same quality as other products. 4) contained. 5) conform to promises made 6) fungible goods
* Implied warranty of fitness- 1) seller has reason to know a purpose of the buyer 2) seller has reason to know buyer is relying on seller’s judgment. 3) buyer actually relies on seller’s skill
* Negligence- seller breached a duty to plaintiff by not eliminating foreseeable risks. 1) negligent manufacturer. 2) Negligent inspection. 3) Failure to provide warnings. 4) Negligent designs
* Strict Liability: 1) seller must be involved 2) defective condition, unreasonably dangerous. 3) buyer didn’t adjust the product
* Damages of Product Liability: -Basis of the bargain: difference of the value lost. -consequential damages: personal injury, property damage, and non-economic. -Punitive damages.
* Disclaimers- no liability. IMPLIED Warranty Disclaimers- make it noticeable & use *Merchantability* –“as is” sometimes just for used goods.
* Express warranty Disclaimers: -(Hard) cannot disclaim things that is promised.
* Defenses: -Product misuses. -Assumption of Risk. -Contributory negligence.

CH 9 – Intro to Contracts

* Elements: -offer & Acceptance. -Consideration, Voluntary, Legal, Capacity.
* Unilateral- promise-> action. Bilateral- Promise for a Promise.
* Valid, Unenforceable, Voidable, and Void Contracts.
* Express- directly stated the terms. Implied- ex: doctor has implied reasonable care.
* Uniform Commercial Code(UCC): -ARTICLE 2: only applies to contracts of sale of goods(tangible, movable, personal property). -Common law: Art 2 does not apply to land, intangibles, services. -Code recognizes unfair contracts, holds merchants on higher standard.
* Quasi Contracts: 1) Jones paints Smith’s house by mistake. -where someone is unjustly enriched.
* Promissory Estoppel: one person relies on promise and suffered loss.

CH 10 – The Offer

* Offer- 1) Objective intent. 2) Definiteness. 3) Offer has been communicated to offeree.
* Termination of Offers: -terms of the offer(when the offeror says it can be accepted). -Lapse of time(reasonable)
* Revocation: offeror may revoke offer any time before acceptance
* Exceptions: 1) Options: separate contract where offeror cant revoke. 2) Offers for unilateral contracts: can’t wait until someone has almost performed and then revoke. 3) Promissory Estoppel: reliance on offer being kept open. 4) Firm offers for the sale of goods: like option must be done by merchant and in writing.
* Rejection: 1) reject. 2) make a counteroffer.

CH 11- Acceptance

* Intention to Accept- same terms as original contract. Communication must be passed in a bilateral contract.
* Mailbox- contract is in place once the acceptance is dispatched. UCC: even unreasonable transport -> dispatch
* Silence as Acceptance: -general rule=no. Exception: customary business, allow performance, “if u don’t hear.”

CH 12-Consideration

* Elements: -doesn’t cover acts of gratitude. -Legal Value: Ex: promise to pay $900 if you stop doing drugs->no
* Exchanges that don’t meet consideration requirements: -Illusory Promises. -Preexisting Duties.
* Exceptions to consideration requirements: -Promissory Estoppel.

CH 13-Reality of Consent

* Misrepresentation & Fraud -reliance on assertion not true, even if made on accident.
* Mistake- Duress- no other alternative