



REUTERS/Stringer

Responding to Breach of Warranty Claims

October 14, 2015

Presenters:

Ryan C. Hardy, *Spencer Fane LLP*

Robert Ford, *Practical Law Commercial Transactions*

About Practical Law

- Practical resources covering all major practice areas.
- Overviews, model documents, trend articles and more created by our expert attorneys.
- Dedicated areas for law firms and law departments.
- Practice centers for specialists.
- What's Market for publicly-filed commercial agreements covering a variety of industry sectors and topics .
- Updates on the latest legal and market developments.
- *Practical Law The Journal* magazine covering today's transactional and compliance topics as well as key issues and developments in litigation practice and procedure.

The screenshot shows the Practical Law website homepage. At the top, there is a navigation bar with 'US' and 'Change country' on the left, and 'Login' on the right. The main header features the 'Practical Law' logo with the tagline 'A THOMSON REUTERS LEGAL SOLUTION'. Below the logo are navigation links for 'Practice Areas', 'Resources', 'International', and 'My Practical Law'. A search bar is located below the navigation, with 'SEARCH IN All US' and a search icon. A dark blue banner below the search bar contains the text 'New to Practical Law? We offer lawyers a better place to start.' and a green button that says 'Sign Up for a Free Trial'. Below the banner, there is a testimonial from Eric Lee, a lawyer at Practical Law Intellectual Property & Technology, who says, 'I love being able to create the types of resources I wish I had while in practice.' To the right of the testimonial is a 'What Are You Working On?' section with a 'Get Started Now' button. Below the testimonial is a 'Browse our Content' section with a list of practice areas: Antitrust, Arbitration: International, Bankruptcy, Capital Markets & Securities, Commercial, Corporate and M&A, Employee Benefits & Executive Compensation, Finance, Intellectual Property & Technology, Labor & Employment, Litigation: Federal, Real Estate, and Tax. To the right of the content list is a 'Testimonials' section with a quote from Alan Berkeley, Partner at K&L Gates LLP, and a 'View More' button.

Responding to Breach of Warranty Claims

- Pre-claim preparation, and receiving the claim
- Demanding the list of deficiencies
- Demanding preservation of goods
- Instructions to the buyer
- Inquiring about the discovery of defects
- Vouching in
- Q&A

Pre-Claim Preparation

- Knowing your contracts
 - What does your warranty say?
 - What does it obligate you to do?
 - When, and under what conditions, must you do it?
- Training your employees
 - Benefit of claims department
 - Specific procedures

The Letter

- Request written list detailing alleged deficiencies.
- Instruct buyer to preserve goods for inspection.
- Instruct buyer on what to do with the goods.
- Inquire about how defect was discovered.

Vouching In

- Vouching is a means to obtain a defense from *your* seller.
- It should not be done automatically; you should consider the costs and benefits.
- But, if you attempt to vouch your seller, and the seller does not come in to defend, it is bound by all facts determined in litigation between you and your buyer.

Questions

Relevant Practical Law Resources Available with a *Free Trial* to Practical Law

- Responding to Claims That Goods Do Not Conform to Warranties Checklist
- Practice Note, The Magnuson-Moss Warranty Act for Consumer Goods
- Practice Note, UCC Article 2 Express Warranties
- Practice Note, Preempting and Mitigating Product Liability Claims
- Standard Document, General Terms and Conditions for the Sale of Goods (Pro-seller)

About the Speakers

Ryan Hardy, Associate, *Spencer Fane Britt & Browne*

Ryan Hardy helps manufacturers avoid and navigate supply-chain and customer disputes, both in and out of court. Ryan also uses his litigation experience to represent banks, property managers, and small business owners. In addition, Ryan shares his legal insights as author of the Manufacturer's Corner column of Spencer Fane's Commercial Law Blog.

About the Speakers

Robert Ford, Senior Associate Editor, *Practical Law Commercial Transactions*

Robert Ford joined Practical Law from Hughes Hubbard and Reed LLP, where he was an associate in the litigation group.