

IS THERE A WARRANTY WHEN YOU BUY A HORSE?

Question: I bought a "bomb proof" horse for my daughter to use for lessons and trail riding. Over the past year, we have come to learn that this horse is just not suitable for a young inexperienced rider like our daughter. The seller has refused to let us return the horse. Can we sue the seller for misrepresentation?

Answer: Without more information, it is difficult to say whether you may have a legitimate claim against the seller under the circumstances. However, a number of possibilities come to mind that might provide you with some food for thought.

Depending on the seller's representations to you concerning the horse, and the terms of any written contract, you might have a breach of warranty claim against the seller. In general, an express warranty is an affirmation of fact or promise made by the seller to the buyer relating to the horse which becomes part of the basis of the bargain. Similarly, a



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description of the horse that is made part of the basis of the bargain creates a warranty that the horse will conform to that description. A statement that merely reflects the seller's valuation or opinion of the horse generally does not create a warranty. For example, the statement that the horse is "bomb proof" probably falls into the valuation/opinion category as opposed to creating an express warranty that the horse is in fact "bomb proof."

While the seller may not have made any express warranties concerning the horse, a warranty that the horse would be suitable for your daughter's use may have been implied under the circumstances. An "implied warranty of fitness for a particular purpose" may arise when the seller knows of the buyer's particular purpose in purchasing a good and the buyer relies on the

seller's judgment in purchasing that good. Depending on your discussions with the seller in purchasing the horse, and the terms of any written contract, it is entirely possible that such an implied warranty existed at the time of sale.

Whether the seller may be liable for misrepresentation or fraud is another possibility. Under Minnesota law, a claim for fraud may arise when a person (1) makes a false representation of a past or present material fact knowing that the representation is false intending for another to rely on the representation, and (2) the other person reasonably relies on this representation to his or her detriment. In other words, if the seller made false representations of fact concerning the horse in order to convince you to purchase the horse, and you relied upon these false representations in purchasing the horse, then you may have a claim for fraud or misrepresentation.

Setting aside your potential legal claims against the seller, it may be worthwhile to consider what other options are available to you regarding this horse. Do you want to keep the horse

for yourself? Would your daughter eventually "grow into" this horse? Would this horse be worthwhile to an experienced rider? Can you sell this horse for an amount that is worthwhile to you?

It never hurts to ask the seller for a specified "trial period" when purchasing a horse to ensure compatibility. If you do not feel comfortable about investing in a particular horse, then leasing - with or without an option to buy - may be a better option.

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