

# Example of warranty actions and strict liability essay

[Law](#), [Evidence](#)



Implied Warranty: Uniform Commercial Code Section 2-314 defines implied warranty to mean that the goods sold shall be of merchantable quality unless excluded or modified in the relative contract. This section also includes food or drink served for consumption on the premises or elsewhere as a sale. Implied warranty therefore recognizes the following assumptions for goods to be deemed merchantable: (a) the goods shall be passed without objection in the trade as described in the contract. (b) if the goods are fungible, they are of fair quality as described in the contract. (c) the goods are fit for the general purposes for which they are used. (d) the goods' specifications may vary within the permitted levels by the agreement. (e) the goods are properly contained, packaged and labeled as per the agreement and (f) the goods conform to claims mentioned on the container or label

Example: A buys a brand new Mixer and after unpacking finds it not working when tried. It does not mix food. So, it turns out be of not merchantable quality which is an implied warranty.

Strict liability in tort: In torts, there are specific torts which include product liability. This is a type of strict liability which does require measurement of any degree of carefulness/carelessness on the part of the defendant but it arises when a particular event creates damage. Product liability can arise out of negligence, breach of warranty or strict liability. The claimant must prove the three types of product defects such as design defects, manufacturing defects and marketing defects. But it does not require to prove negligence. The user must have used the product which should have reached him/her without substantial change. Strict liability applies to only product and not service unless it can be described as a product . Example: Explosives causing

explosion during transportation which does not require proof of negligence on the part of the supplier or transporter. In express warranty or implied warranty, burden of proof is on the claimant which can be rebutted by the defendant. Implied warranty is based on certain assumptions as against express warranty based on certain affirmations made by the seller of goods.. In the case of strict liability, there is no proof of negligence required. Thus, if a specified event occurs regardless of negligence or otherwise strict liability prevails. In strict liability actions, it is irrelevant if the vendor acted reasonably. Thus, this strict liability forces manufacturers to guarantee safety of their products. If the user is injured while using the product, he needs to show that the product caused injury apart from proving that the product was defective or in dangerous condition. The defects in design or manufacturing defect or failure to warn against hazards can give rise to strict liability. Under strict liability, users are not compensated for economic loss but only for personal injury or damage to property. In strict liability, everyone in the distribution chain as defendants may become liable for damages incurred by the plaintiff. An advantage in warranties is that the vendor can make disclaimers for even if implied by law. The disclaimer must be conspicuous. However, if a consumer product is covered under a written warranty, the supplier cannot make a disclaimer against implied warranties specified under state law.

## **References**

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