

CASEBRIEFS

The Understanding Video Lecture Series™

Warranties

Types of Warranties

- Express
- Implied Warranty of Merchantability
- Warranty of fitness for a particular purpose

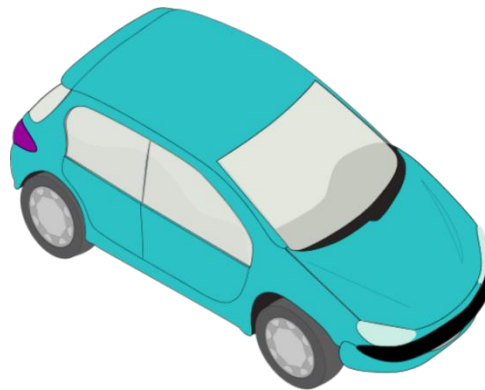
Express

- An express warranty is an explicit promise or guarantee by the seller that the goods will have certain qualities.
- A description of goods can be an express warranty.
 - Example: The bill of sale from Jewelry store says “2 Carat flawless Ruby”
- In addition, a sample or model can be an express warranty.
 - You are at Target, and see a toaster on the shelf, and take a look. The toaster in the box should match the shelf model



“Puffing”

- If a sales person is merely “puffing” or stating an opinion, that is not a warranty.
 - Example: a used car salesman saying “this is a top notch car” is not a warranty. However, telling you how many mpg the car gets IS a warranty.



Implied Warranty of Merchantability

- “Unless excluded or modified, a warranty that goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind” – UCC 2-314
- What does merchantable mean? Fit for the ordinary purposes for which such goods are used
- Example – a lawn mower should mow a normal lawn



Fitness for a Particular Purpose

- Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's judgement to select or furnish suitable goods, there is an implied warranty that the goods shall be fit for such a purpose" UCC 2-315

Elements

- Seller had reason to know the buyer's purpose
- Seller had reason to know that the buyer was relying on the seller's skill or judgement to furnish suitable goods and
- That the buyer did in fact rely on the seller's skill or judgement

Disclaimers of Warranty

- Generally, the UCC limits the extent to which a seller may disclaim warranties
- Express Warranties: Can be disclaimed as long as the disclaimer is CLEAR. (Rare – since seller is not forced to make an express warranty)
- Implied –
 - Merchantability – must mention the word merchantability and must be conspicuous
 - Fitness for a particular purpose – must be in writing

Let's try an example

- Ian is shopping for a new mobile phone. He goes to the store, and looks over the different phones that are displayed, each with a description of various features. He picks out the Telecom Xs, in black. On the description near the floor model it says that the Xs has a dual-pixel camera with incredibly fast auto-focus, a longer-lasting battery and comes in 32GB. Available in Black Onyx, Gold Platinum, or Silver Titanium. It also states that it has international capabilities.

Cont'd

- Ian begins using the phone, but finds he can't call his home in England.
- Breached warranty?



Yes

- This is a breach of an express warranty. The description by the phone claims that there are international capabilities, if it is unable to dial internationally, this express warranty has been breached.

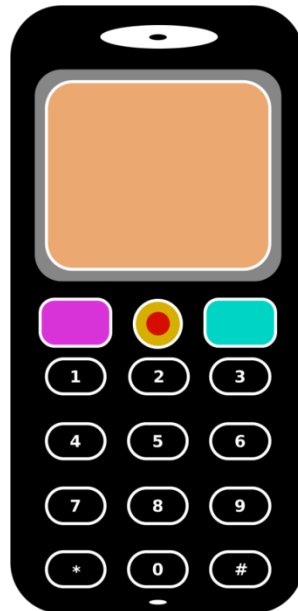


Let's change it a bit

- This time, Ian takes his new phone home, but while he can make outgoing calls, he is told by friends that whenever they try to call him, it goes straight to voice mail. Essentially, his phone isn't accepting incoming calls. Breach of warranty?

Yes

- A phone should make outgoing calls AND receive incoming calls. This is a breach of the implied warranty of merchantability.



One last hypo

- Melissa plans on training for a marathon, and goes to “Marathon Sports” to buy running shoes. She’s fairly new to running, or at least running marathons, and asks the salesman for the best shoes for running a marathon, which is 26.2 miles. The Salesman has her try on the New Balance “run”, and assures her they are the best for running long distances and training.

But...

- After her first week of training, totaling 20 miles, the shoes fall apart. Breach of warranty?



Yes

- Fitness for a particular purpose. Melissa relied on the salesman's judgement and the shoes **SHOULD** have lasted through training.

