

APPENDIX B	
STATES THAT REQUIRE VERTICAL PRIVACY FOR IMPLIED WARRANTY OF MERCHANTABILITY CLAIMS	
ALABAMA	It is well-settled in Alabama that there is no right of action on an implied warranty theory against a manufacturer for property damage or for direct economic loss without privity of contract. <i>Rampey v. Novartis Consumer Health, Inc.</i> 867 So. 2d 1079, 1087 (Ala. 2003); <i>Johnson v. Anderson Ford, Inc.</i> , 686 So. 2d 224, 227-28 (Ala. 1996); <i>Wellcraft Marine v. Zarzour</i> , 577 So. 2d 414, 419 (Ala. 1990).
ARIZONA	Vertical privity is required in warranty actions in Arizona involving alleged economic loss. <i>Flory v. Silvercrest Indus. Inc.</i> , 633 P.2d 383, 386-88 (Ariz. 1981) (explaining that plaintiff is unable to recover for damages for economic loss against manufacturer for breach of implied and express warranties in the absence of privity).
CALIFORNIA	“Vertical privity is a prerequisite in California for recovery on a theory of breach of the implied warranties of fitness and merchantability.” <i>U.S. Roofing, Inc. v. Credit Alliance Corp.</i> , 228 Cal. App. 3d 1431, 1441 (Cal. Ct. App. 1991); <i>see also Burr v. Sherwin Williams Co.</i> , 268 P.2d 1041, 1048-49 (Cal. 1954) (concluding the trial court erred in instructing the jury that vertical privity was not required in an action for breach of implied warranty).
FLORIDA	Privity is required to state a claim for breach of implied warranty of merchantability in Florida. <i>See Airport Rent-A-Car, Inc. v. Prevost Car, Inc.</i> , 788 F. Supp. 1203, 1206 (S.D. Fla. 1992) (“[p]rivacy of contract between plaintiff and defendant is an essential element of the breach of implied warranty cause of action” in a claim for economic loss); <i>Am. Universal Ins. Group v. Gen. Motors Corp.</i> , 578 So.2d 451, 454-55 (Fla. Dist. Ct. App. 1991); <i>see also T.W.M. v. Am. Med. Sys. Inc.</i> , 886 F. Supp. 842, 844 (N.D. Fla. 1995) (“to recover for the breach of a warranty, either express or implied, the plaintiff must be in privity of contract with the defendant”).
GEORGIA	Under Georgia law, “a warranty that the goods are merchantable is implied in a contract for their sale” Ga. Code. Ann. § 11-2-314. Because this implied warranty arises out of a contract for the sale of the goods, “it can only run to a buyer who is in privity of contract with the seller.” <i>Thomaston v. Fort Wayne Pools, Inc.</i> , 352 S.E.2d 794, 796 (Ga. Ct. App. 1987) (citation omitted); <i>see also Morgan v. Mar-Bel, Inc.</i> , 614 F. Supp. 438, 441 (N.D. Ga. 1985) (finding that “Georgia law requires a showing of privity between the injured person and the seller of a product before a claim based upon an implied warranty may be brought”) (citation omitted).
ILLINOIS	Under Illinois law, if a purchaser seeks only economic damages, that purchaser can bring a claim for breach of an implied warranty only against the immediate seller of the goods. <i>See Mekertichian v. Mercedes-Benz U.S.A., L.L.C.</i> , 807 N.E.2d 1165, 1169 (Ill. App. Ct. 2004) (recognizing that Illinois requires privity of contract in breach of implied warranty claims); <i>Tokar v. Crestwood Imports, Inc.</i> , 532 N.E.2d 382, 385 (Ill. App. Ct. 1998) (affirming dismissal of implied warranty claim because there was no vertical privity

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	between automobile purchaser and manufacturer).
KANSAS	Under Kansas law, when a plaintiff brings an action for economic loss for a breach of the warranties of fitness or merchantability, privity is required. <i>Koss Constr. v. Caterpillar, Inc.</i> , 960 P.2d 255, 259 (Kan. Ct. App. 1998); <i>see also Professional Lens Plan, Inc. v. Polaris Leasing Corp.</i> , 675 P.2d 887, 898-99 (Kan. 1984) (explaining that under Kansas law, “implied warranties of fitness and merchantability are not extended to a remote seller or manufacturer of an allegedly defective product . . . for only economic loss suffered by a buyer who is not in contractual privity with the remote seller or manufacturer”).
KENTUCKY	Kentucky courts require privity of contract in products liability actions based on a breach of warranty. <i>Williams v. Fulmer</i> , 695 S.W.2d 411, 413 (Ky. 1985); <i>see also Munn v. Pfizer Hosp. Prods. Group, Inc.</i> , 750 F. Supp. 244, 248 (W.D. Ky. 1990) (recognizing that Kentucky does not extend breach of warranty standing beyond the buyer/seller setting).
NEW YORK	New York courts requires vertical privity for implied warranty claims seeking economic damages. <i>See, e.g., Am. Dredging Co. v. Plaza Petroleum, Inc.</i> , 799 F. Supp. 1335, 1341 (E.D.N.Y. 1992), <i>vacated in part</i> on other grounds, 845 F. Supp. 91 (E.D.N.Y. 1993); <i>Dragon v. Monahan Ford Corp. of Flushing</i> , 538 N.Y.S.2d 142, 143 (N.Y. Civ. Ct. 1989) (dismissing a consumer’s implied warranty claim against an automobile manufacturer on the grounds that the “implied warranties of merchantability and fitness for use. . .do not extend to a remote purchase, not in privity with the manufacturer”).
OREGON	Oregon courts recognize “the rule that privity of contract is essential before a purchaser can recover economic loss from a manufacturer for breach of implied warranty.” <i>Davis v. Homasote Co.</i> , 574 P.2d 1116, 1117 (Or. 1978); <i>see also Colvin v. FMC Corp.</i> , 604 P.2d 157, 160 (Or. Ct. App. 1979) (confirming that Oregon law requires privity where the seller allegedly breaches a warranty and the damages sought are for personal injuries).
TENNESSEE	Under Tennessee law, privity is required where only economic damages are sought. <i>Americoach Tours, Inc. v. Detroit Diesel Corp.</i> , No. 04-2016, 2005 U.S. Dist. LEXIS 40182, at *24 (W.D. Tenn. Sept. 23, 2005) (explaining that because the plaintiff failed to establish non-economic damages resulting from alleged breach of implied warranty, “the requirement of privity is not excused regardless of whether the product was unreasonably dangerous”).
WISCONSIN	Privity is a requirement under Wisconsin law for a breach of warranty claim. <i>Northridge Co. v. W.R. Grace & Co.</i> , 471 N.W.2d 179, 187 n.15 (Wis. 1991); <i>see also Twin Disc, Inc. v. Big Bud Tractor, Inc.</i> , 582 F. Supp. 208, 215 (E.D. Wis. 1984) (recognizing that Wisconsin law requires privity of contract for express or implied warranty claims).