

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PAUL WAGNER, Individually and as  
Executor of the ESTATE OF REGINA  
WAGNER, Deceased,

Plaintiff,

v.

KIMBERLY-CLARK  
CORPORATION,

Defendant.

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: CIVIL ACTION  
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: NO. 16-4209  
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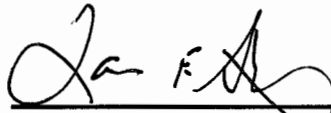
**FILED**  
DEC 01 2016  
LUCY V. CHIN, Interim Clerk  
By \_\_\_\_\_ Dep. Clerk

**ORDER**

AND NOW, this 1<sup>st</sup> day of December, 2016, after considering the defendant's motion to partially dismiss plaintiff's complaint (Doc. No. 5), plaintiff's response in opposition to this motion (Doc. No. 6), and defendant's brief in reply to plaintiff's response in opposition (Doc. No. 9), **IT IS HEREBY ORDERED** that:

1. Defendant's motion to dismiss plaintiff's breach of warranty claim (Count III) is **GRANTED**.
2. Defendant's motion to dismiss plaintiff's strict liability claim (Count II) is **DENIED**.
3. Any language relating to a "design" defect or "failure to warn" shall be stricken from plaintiff's complaint with prejudice.

BY THE COURT:

A handwritten signature in black ink, appearing to read "L. F. Stengel". The signature is written in a cursive style with a large initial "L" and "S".

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LAWRENCE F. STENGEL, J.