

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFF

VS.

NO.

DEFENDANT

COMPLAINT

That the Defendant, , hereinafter referred to as , is a corporation duly licensed and qualified to do business in the State of and is subject to the jurisdiction and venue of this Honorable Court. That has its domestic and principle place of business in , its registered agent for service of process is the .

1. Defendant, , is the manufacturer, distributor, and marketer of a product known as , which is . It is sold as a product to work as .

2. The had a duty to manufacture a product which would be safe for its intended and foreseeable uses and users, including the use to which it was put by . The Defendant breached its duty to consumers and users of in the following manner: Defendant, , was negligent in the design, development, manufacture, and testing of .

3. Defendant, , was negligent in failing to properly test to determine the dangerous potential when used when it knew, or in the exercise of reasonable care should have known, that would be used.

4. Defendant, , negligently failed to adequately warn and instruct the users of , such as and including , of the high degree of risk attendant to the using in the manner in which used it, or in the exercise of reasonable care should have known, that the users of would be ignorant of the said defective, dangerous and hazardous use of when using it.

5. The Defendant, , failed to exercise reasonable care in the manufacture of , which, unless carefully made, the Defendant recognized or by the exercise of reasonable care should have recognized as involving an unreasonable risk of causing physical harm to those upon whom it would be used for a purpose such as the instant case for which the manufacturer would expect it to be used, and to those whom the manufacturer would expect to endangered by its probable use. is, therefore, liable to this Plaintiff for physical harm caused by in the manner and for a purpose for which it was designed, manufactured, distributed, sold and otherwise supplied by your Defendant. Whereupon, the Plaintiff respectfully relies upon the Restatement, Second, Torts 395.

6. The Defendant, , further breached its duties to your Plaintiff by supplying directly and/or through a third person to be used by such foreseeable persons such as your Plaintiff when

, or had reason to know, that the _____ was dangerous or was likely to be dangerous for the use for which it was supplied; and

This Defendant failed to exercise reasonable care to inform _____ of the dangerous condition, or of the facts under which _____ is likely to be dangerous.

7. Therefore, your Plaintiff, _____, respectfully relies upon the Doctrine and Theory of Negligence as contained in _____.

8. Plaintiff alleges that the Defendant, _____, manufactured the _____ in question and put _____ into the stream of commerce in a defective condition when it was unreasonably dangerous to the ultimate user, your Plaintiff, _____.

9. Defendant, _____, is strictly liable in tort for the Plaintiff's injuries and damages and the Plaintiff respectfully relies upon the Doctrine as set forth in Restatement, Second, Torts 402(a).

10. The Defendant, _____, impliedly warranted that _____ was fit to be used for the purpose for which it was designed, manufactured, and sold, that it was a safe, suitable product to be used by persons such as _____ in the manner in which it was used, and that _____ was fit and suitable for the uses such as the use in fact made of in the instant case.

11. In using _____, Plaintiff, _____, relied upon the skill and judgment of the Defendant, _____, and also relied upon the implied warranty of fitness for the purpose for which your Plaintiff was using _____.

12. _____ was not fit for use for its intended purposes for which it was used by your Plaintiff, and as a result of the breach of warranty of fitness by _____, your Plaintiff sustained the injuries and damages set forth below.

13. Because of the negligence of the design and manufacture of a _____ on which Plaintiff was injured and the failure of _____ to warn Plaintiff of the certain dangers concerning the operation of the _____ which were known to Defendants but were unknown to Plaintiff, the Defendants have omitted a tort in whole or in part within the jurisdiction and venue of this Court.

14. The _____ which caused Plaintiff's injuries was manufactured by _____.

15. At all times herein material, Defendants negligently and carelessly did certain acts and failed to do other things, including but not limited to inventing, developing, designing, researching, guarding, manufacturing, building, inspecting, investigating, testing, labeling, instructing, and negligently and carelessly failed to provide adequate and fair warning of the characteristics, dangers and hazards associated with the operation of the _____ in question to users of the _____, and including but not limited to Plaintiff, and willfully failed to recall or otherwise cure one or more of the defects in the product involved thereby directly and proximately causing the hereinafter described injury.

16. On or about _____, Plaintiff was engaged in operation of _____ when, as a direct and proximate result of the carelessness and negligence of the Defendants, an injury occurred.

17. At all times herein mentioned, the Plaintiff was using Defendants' _____ or working thereon in a prudent manner.

18. The abovementioned _____ was unsafe for its use by reason of the fact that it was defective. For example, and not in limiting of the foregoing, the _____ was defective in its design, guarding, development, manufacture, and because this _____ neither had nor was accompanied by permanent, accurate and adequate and fair warning of the characteristics, danger and hazard to the user, prospective user and members of the general public, including but not limited to Plaintiff, and because Defendants failed to recall or otherwise cure one or more defects in the _____ involved thereby directly and proximately causing the described injuries and occurrence.

19. Defendants, and each of them, knew or reasonably should have known that the above mentioned product would be purchased and used without all necessary testing or inspection for defects by the Plaintiff and persons similarly situated.

20. The above-mentioned product was unsafe for its use by reason of the fact that it was defective. For example, and not in limitation of the foregoing, the product was defective in its inventing, developing, designing, researching, guarding, purchasing, compounding, selecting, manufacturing, building, owning, inspecting, investigating, testing, labeling, representing, caring for, specifying, maintaining, packaging, supplying, shipping, furnishing, and selling, and because the product neither had nor was accompanied by permanent, accurate, adequate, and fair warning of the characteristics, dangers and hazards of the product to purchasers and users, prospective purchasers and users, and members of the general public, including but not limited to Plaintiff, and because Defendants failed to recall or otherwise cure one or more defects in the product involved, thereby directly and proximately causing the described incident and occurrence.

21. Plaintiff was not aware of those defects at any time before the incident and occurrence mentioned in this complaint, or else Plaintiff was unable, as a practical matter, to cure that defective condition.

22. Plaintiff used the product in a foreseeable manner.

23. That _____ is permanently and totally disabled by reason of the recklessness, carelessness, and medical negligence of the Defendants. As a proximate result of the negligence of Defendants, Plaintiff, _____ suffered the following injuries and damages:

(1) Medical, hospital, doctor and drug bills, both in the past and reasonably anticipated in the future;

(2) The loss of wages to date, and Plaintiff, _____, reasonably anticipates losing wages and income in the future;

(3) Loss of wage earning capacity;

(4) Permanent disability;

(5) Severe pain and suffering in the past and Plaintiff reasonably anticipates to experience severe pain and suffering in the future;

- (6) Severe painful and disabling injuries to _____ body as a whole;
- (7) Mental anguish and shock to _____ nervous system.

24. That the Plaintiff, _____, is the _____ of _____, Plaintiff in this cause, and that as a direct and proximate result of the negligence of Defendants as set out above and injuries sustained by Plaintiff 's _____ as set out above, Plaintiff has sustained great and irreparable loss in that _____ will be deprived for the remainder of _____ life of the society, companionship, consortium, comfort, solace and service of _____ for all which loss and deprivation, injury and damage, Plaintiff is entitled to damages in this cause.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs bring this action against the Defendants, jointly and severally, and demand judgment against _____ in an amount within the jurisdictional limits of this court and in excess of _____.

Respectfully submitted this the _____ day of _____, 20____.

Attorney for

Of Counsel:

Telephone:
MSB #
Attorney for