

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

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|--------------------|---|---------------------------|
| VALDIZ WALKER. | : | |
| | : | |
| Plaintiff, | : | Civil Action No.: |
| v. | : | |
| | : | <u>JURY DEMAND</u> |
| COSTWAY.COM, INC., | : | |
| d/b/a COSTWAY | : | |
| | : | |
| Defendant. | : | |

COMPLAINT

Plaintiff, **VALDIZ WALKER**. (hereafter referred to as “Plaintiff”), by and through her undersigned counsel, **JOHNSON BECKER, PLLC** and **CONLEY GRIGGS PARTIN LLP**, hereby submits the following Complaint and Demand for Jury Trial against Defendant **COSTWAY.COM, INC., d/b/a COSTWAY** (hereafter referred to as “Costway”) alleges the following upon personal knowledge and belief, and investigation of counsel:

NATURE OF THE ACTION

1. This is a product liability action seeking recovery for substantial personal injuries and damages suffered by Plaintiff after Plaintiff was injured by a “6 QT Programmable Electric Stainless Steel Pressure Rice Cooker” Model Number EP21653 (hereafter generally referred to as “pressure cooker(s)”). Defendant Costway designs, manufactures, markets, imports, distributes and sells a wide-range

of consumer products, including the subject “6 QT Programmable Electric Stainless Steel Pressure Rice Cooker.”

2. On or about February 1, 2019, Plaintiff suffered serious and substantial burn injuries as the direct and proximate result of the pressure cooker’s lid suddenly and unexpectedly exploding off the pressure cooker’s pot during the normal, directed use of the pressure cooker, allowing its scalding hot contents to be forcefully ejected from the pressure cooker and onto Plaintiff.

3. As a direct and proximate result of Defendant’s conduct, the Plaintiff in this case incurred significant and painful bodily injuries, medical expenses, wage loss, physical pain, mental anguish, and diminished enjoyment of life.

PARTIES

4. Plaintiff was, at all relevant times, a resident of the City of Columbus, Muscogee, State of Georgia.

5. Defendant Costway is a California Corporation, which has a headquarters at 3900 E Philadelphia St, Ontario, California 91761 and registered service address of 11250 Poplar Avenue, Fontana, California 92337. Defendant Costway designs, manufacturers, markets, imports, distributes and sells a variety of consumer products including pressure cookers, cutlery, pots, and pans, amongst other items.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this case pursuant to diversity jurisdiction prescribed by 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and there is complete diversity between the parties.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to this claim occurred in this district.

8. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391 because Defendant has sufficient minimum contacts with the State of Georgia and intentionally availed itself of the markets within Georgia through the promotion, sale, marketing, and distribution of their products.

FACTUAL ALLEGATIONS

9. On or about February 1, 2019, Plaintiff was using the pressure cooker designed, manufactured, marketed, imported, distributed and sold by Defendant for its intended and reasonably foreseeable purpose of cooking dinner.

10. While the pressure cooker was in use for cooking, the pressure cooker's lid unexpectedly and suddenly blew off the pot in an explosive manner. The contents of the pressure cooker were forcefully ejected out of the pot and onto Plaintiff, causing severe burns to, *inter alia*, his left upper extremity.

11. Plaintiff used his pressure cooker for its intended purpose of preparing meals for herself and/or family and did so in a manner that was reasonable and foreseeable by the Defendant.

12. However, the aforementioned pressure cooker was defectively designed and manufactured by Defendant in that it failed to properly function as to prevent the lid explosively separating from the pot while under pressure during the ordinary, foreseeable and proper use of cooking food with the product; placing the Plaintiff, her family, and similar consumers in danger while using the pressure cookers.

13. Defendant's pressure cookers possess defects that make them unreasonably dangerous for their intended use by consumers because they can spontaneously and unexpectedly explode during their normal and directed use.

14. In fact, in most instances, Defendant's pressure cookers are completely devoid of any meaningful warnings and/or instructions. This is made evident by consumer reviews on the various websites selling Defendant's pressure cookers. For example:

Question: [Where do I find an instruction manual for this model that makes sense?](#)

See <https://www.amazon.com/Electric-Pressure-Cooker-Stainless-Aluminum/dp/B01DK31ES0#customerReviews>
(lasted accessed December 25, 2020)

Question: Does it comes with instructions book ?
Answer: no kind of user guide came with my pressure cooker
By david hunter on May 13, 2018

See <https://www.amazon.com/Electric-Pressure-Cooker-Stainless-Aluminum/dp/B01DK31ES0#customerReviews>
(lasted accessed December 25, 2020)

I have the pressure cooker but there was no user manual in the box. Apparently this is normal. I can't find the guide on line to figure out it works, very frustrating.

Riky | today

See <https://www.sears.com/goplus-costway-1000-watt-6-quart-electric-pressure/p-SPM13783561624>
(lasted accessed December 25, 2020)

★★★★★ | Verified Purchase

No instructions with product very difficult to add time found nothing on internet to help. If you want to cook meat for 1 hour you do for 30 minutes once that is complete restart go another 30 minutes. Why no instructions?

Daniel M. June 3, 2019



See <https://www.overstock.com/Home-Garden/Costway-1000-Watt-6-quart-Electric-Pressure-Cooker-Brushed-Stainless-Steel-Silver-and-Black/17752816/product.html>
(lasted accessed December 25, 2020)

★★★★★ | Verified Purchase

The features are nice but, not easy to understand.

FRED F. April 25, 2019

See <https://www.overstock.com/Home-Garden/Costway-1000-Watt-6-quart-Electric-Pressure-Cooker-Brushed-Stainless-Steel-Silver-and-Black/17752816/product.html>
(lasted accessed December 25, 2020)

15. Economical, feasible safer alternative designs were available that could have prevented the pressure cooker's lid from explosively separating from the pot while under pressure.

16. Defendant knew or should have known that their pressure cookers possessed defects that pose a serious safety risk and should have warned the Plaintiff and the public of the same. Nevertheless, Defendant ignored and/or concealed their knowledge of the pressure cookers' defects from the general public and generated a substantial profit from the sale of their pressure cookers.

17. As a direct and proximate result of Defendant's intentional concealment of such defects, their failure to warn consumers of such defects, their failure to remove a product with such defects from the stream of commerce, and their negligent design of such products, Plaintiff used an unreasonably dangerous pressure cooker, which resulted in significant and painful bodily injuries.

18. Consequently, the Plaintiff in this case seeks compensatory damages resulting from the use of Defendant pressure cooker as described above, which has caused the Plaintiff to suffer from serious bodily injuries, medical expenses, lost wages, physical pain, mental anguish, diminished enjoyment of life, and other damages.

CLAIMS FOR RELIEF

COUNT I
STRICT LIABILITY

19. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

20. At the time of Plaintiff's injuries, Defendant's pressure cookers were defective and unreasonably dangerous for use by foreseeable consumers, including Plaintiff.

21. Defendant's pressure cookers were in the same or substantially similar condition as when they left the possession of the Defendant.

22. Plaintiff and her family did not misuse or materially alter the pressure cooker.

23. The pressure cookers did not perform as safely as an ordinary consumer would have expected them to perform when used in a reasonably foreseeable way.

24. Further, a reasonable person would conclude that the possibility and seriousness of harm outweighs the burden or cost of making the pressure cookers safe.

Specifically:

- a. The pressure cookers designed, manufactured, sold, and supplied by Defendant were defectively designed and placed into the stream of commerce in a defective and unreasonably dangerous condition for consumers;

- b. The seriousness of the potential burn injuries resulting from the product drastically outweighs any benefit that could be derived from its normal, intended use;
 - c. Defendant failed to properly market, design, manufacture, distribute, supply, and sell the pressure cookers, despite having extensive knowledge that the aforementioned injuries could and did occur;
 - d. Defendant failed to warn and place adequate warnings and instructions on the pressure cookers;
 - e. Defendant failed to adequately test the pressure cookers; and
 - f. Defendant failed to market an economically feasible alternative design, despite the existence of economical, safer alternatives, that could have prevented the Plaintiff's injuries and damages.
25. Defendant's actions and omissions were the direct and proximate cause of the Plaintiff's injuries and damages.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT II
NEGLIGENCE

26. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

27. Defendant had a duty of reasonable care to design, manufacture, market, and sell non-defective pressure cookers that are reasonably safe for their intended uses by consumers, such as Plaintiff and her family.

28. Defendant failed to exercise ordinary care in the manufacture, sale, warnings, quality assurance, quality control, distribution, advertising, promotion, sale and marketing of its pressure cookers in that Defendant knew or should have known that said pressure cookers created a high risk of unreasonable harm to the Plaintiff and consumers alike.

29. Defendant was negligent in the design, manufacture, advertising, warning, marketing and sale of its pressure cookers in that, among other things, they:

- a. Failed to use due care in designing and manufacturing the pressure cookers to avoid the aforementioned risks to individuals;
- b. Placed an unsafe product into the stream of commerce;
- c. Aggressively over-promoted and marketed its pressure cookers through television, social media, and other advertising outlets; and
- d. Were otherwise careless or negligent.

30. Despite the fact that Defendant knew or should have known that consumers were able to remove the lid while the pressure cookers were still pressurized, Defendant continued to market its pressure cookers to the general public.

31. Defendant knew or should have known of these defects but has nevertheless put profit ahead of safety by failing to warn consumers of the serious risks posed by the defects.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT III
BREACH OF IMPLIED WARRANTY OF FITNESS
FOR A PARTICULAR PURPOSE

32. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

33. Defendant manufactured, supplied, and sold their pressure cookers with an implied warranty that they were fit for the particular purpose of cooking quickly, efficiently and safely.

34. Members of the consuming public, including consumers such as the Plaintiff and/or Plaintiff's family, were the intended third-party beneficiaries of the warranty.

35. Defendant's pressure cookers were not fit for the particular purpose as a safe means of cooking, due to the unreasonable risks of bodily injury associated with their use.

36. The Plaintiff and/or Plaintiff's family reasonably relied on Defendant's representations that its pressure cookers were a quick, effective and safe means of cooking.

37. Defendant's breach of the implied warranty of fitness for a particular purpose was the direct and proximate cause of Plaintiff's injuries and damages.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT IV
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

38. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

39. At the time Defendant marketed, distributed and sold their pressure cookers to the Plaintiff in this case, Defendant warranted that its pressure cookers were merchantable and fit for the ordinary purposes for which they were intended.

40. Members of the consuming public, including consumers such as the Plaintiff and/or Plaintiff's family, were intended third-party beneficiaries of the warranty.

41. Defendant's pressure cookers were not merchantable because they had the propensity to lead to the serious personal injuries as described herein in this Complaint.

42. The Plaintiff and/or Plaintiff's family used the pressure cooker with the reasonable expectation that it was properly designed and manufactured, free from defects of any kind, and that it was safe for its intended, foreseeable use of cooking.

43. Defendant's breach of implied warranty of merchantability was the direct and proximate cause of Plaintiff's injury and damages.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendant for damages, including punitive damages if applicable, to which he is entitled by law, as well as all costs of this action, interest and attorneys' fees, to the full extent of the law, whether arising under the common law and/or statutory law, including:

- a. judgment for Plaintiff and against Defendant;
- b. damages to compensate Plaintiff for her injuries, economic losses and pain and suffering sustained as a result of the use of the Defendant's pressure cookers;
- c. pre and post judgment interest at the lawful rate;
- d. punitive damages, if applicable, on all applicable Counts as permitted by the law;
- e. a trial by jury on all issues of the case;
- f. an award of attorneys' fees; and
- g. for any other relief as this Court may deem equitable and just, or that may be available under the law of another forum to the extent the law of another forum is applied, including but not limited to all reliefs prayed for in this Complaint and in the foregoing Prayer for Relief.

Respectfully submitted,

CONLEY GRIGGS PARTIN, LLP

Date: 12/30/2020

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