

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WADE MULLEN,

Plaintiff,

v.

BODUM USA, INC.,

Defendant.

JURY TRIAL DEMANDED

Civil Action No. 1:23-cv-1166

COMPLAINT

Plaintiff, above-named, by and through his undersigned counsel, hereby submits the following Complaint and Demand for Jury Trial against the above-named Defendant, and alleges the following upon personal knowledge and belief, and investigation of counsel:

NATURE OF THE ACTION

1. This is a products liability action seeking recovery for personal injuries and damages suffered by **Plaintiff Wade Mullen** (hereafter referred to as “Plaintiff”), after Plaintiff purchased and used a Bodum Brazil French Press Coffee Press (“subject coffee press”) designed, manufactured, produced, tested, studied, inspected, labeled, marketed, advertised, promoted, distributed and sold by **Bodum USA, Inc.** (hereafter referred to as “Bodum” or “Defendant”).

2. On or about May 1, 2019, the Consumer Products Safety Commission (“CPSC”) issued a recall involving the “Bodum + Starbucks Recycled Coffee Presses”, which included the subject coffee press, due to coffee press’ plunger knob can break and expose the metal rod, posing a laceration hazard.” A copy of the Recall Notice is attached hereto as Exhibit A and incorporated by reference.

3. In or around April 22, 2020, Plaintiff purchased the subject coffee press from Target in Litiz, Pennsylvania.

4. On or about March 7, 2021, Plaintiff was using the subject coffee press consistent with its intended purpose of making coffee. As Plaintiff pressed the plunger knob, the coffee press shatter, causing scalding hot water to land on his lower legs and feet.

5. As a direct and proximate result of the Defendant's conduct, the Plaintiff in this case has incurred permanent bodily injuries, physical pain, mental anguish, lost wages, diminished enjoyment of life, and other damages.

PARTIES, JURISDICTION & VENUE

6. Plaintiff is an adult resident of the City of Ephrata, County of Lancaster, Commonwealth of Pennsylvania, and is resident and citizen of the Commonwealth of Pennsylvania for the purposes of diversity prescribed by 8 U.S.C. § 1332.

7. Defendant Bodum USA, Inc. is a New York Corporation, which has its principal place of business at 45 E 20th St 8th FL, New York, NY 10003 and is a resident and citizen of the State of New York for the purposes of diversity prescribed by 28 U.S.C. § 1332.

8. Jurisdiction is proper pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and there is complete diversity between the parties.

9. 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.

10. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391 because the Defendant is a resident and citizen of this district.

FACTUAL BACKGROUND

11. On or about May 1, 2019, the Consumer Products Safety Commission (“CPSC”) issued a recall involving the “Bodum + Starbucks Recycled Coffee Presses”, which included the subject coffee press, due to coffee press’ plunger knob can break and expose the metal rod, posing a laceration hazard.” *See* Exhibit A.

12. In or around April 22, 2020, Plaintiff purchased the subject coffee press from Target in Litiz, Pennsylvania.

13. On or about March 7, 2021, Plaintiff was using the subject coffee press consistent with its intended purpose of making coffee. As Plaintiff pressed the plunger knob, the coffee press shatter, causing scalding hot water to land on his lower legs and feet.

14. At the time the coffee press was designed, manufactured, and sold by Bodum, it was defective in design and unreasonably dangerous as designed, as the coffee press in question did not possess an adequately designed steel coil component in its plunger unit. Specifically, the steel coil used in the coffee press plunger assembly did not prevent uncoiling of the steel coil’s end-piece, allowing the end-piece to become uncoiled and jut toward the outer portion of the plunger, coming into contact with the glass container during use.

15. There was a safer alternative design other than the one used, including the incorporation of a welded end-piece of the steel coil (preventing the possibility of uncoiling), which was economically and technologically feasible at the time of production and would have prevented or significantly reduced the risk of the accident and/or injury in question without substantially impairing the coffee press’ utility.

16. Additionally, at the time the coffee press in question left the possession of Bodum, it was defective in manufacture, as it was an unreasonably dangerous product. Specifically, the plunger

unit possessed a steel coil that has two end pieces. These steel ends were wrapped around the adjacent portion of the steel coil. At the time of manufacture, the steel end-piece was not adequately wrapped around the adjacent piece. During use, this end-piece became uncoiled, allowing the steel end-piece to come into contact with the glass container during use.

17. The product was dangerous to an extent beyond that which would be contemplated by the ordinary user of the product with the ordinary knowledge common to the community as to the product's characteristics.

18. Consequently, the Plaintiff seeks damages resulting from the use of the subject coffee press 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 Coffee press were defective and unreasonably dangerous for use by foreseeable consumers, including Plaintiff.

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

22. Plaintiff did not misuse or materially alter his coffee maker.

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

24. At the time the coffee press in question left the possession of Bodum, it was defective in manufacture, as it was an unreasonably dangerous product. Specifically, the plunger unit possessed a steel coil that has two end pieces. These steel ends were wrapped around the adjacent portion of the steel coil. At the time of manufacture, the steel end-piece was not adequately wrapped around the adjacent piece. During use, this end-piece became uncoiled, allowing the steel end-piece to come into contact with the glass container during use.

25. Further, a reasonable person would conclude that the possibility and serious of harm outweighs the burden or cost of making the Coffee press safe. Specifically:

- a. The Coffee press 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 Coffee press, 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 Coffee press;
- e. Defendant failed to adequately test the Coffee press; and
- f. Defendant failed to market an economically feasible alternative design, despite the existence of the aforementioned economical, safer alternatives, that could have prevented the Plaintiff' injuries and damages.

26. 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, and all such other relief as the Court deems proper.

COUNT II
NEGLIGENCE

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

28. Defendant has a duty of reasonable care to design, manufacture, market, and sell non-defective coffee press that are reasonably safe for their intended uses by consumers, such as Plaintiff.

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

30. Defendant was negligent in the design, manufacture, advertising, warning, marketing and sale of its Coffee press in that, among other things, it:

- a. Negligently designing of the subject coffee press;
- b. Negligently manufacturing the subject coffee press;
- c. Negligently failing to properly test the subject coffee press;
- d. Negligently failing to warn consumers of a known danger/defect in the subject coffee press;
- e. Negligently failing to disclose post-sale information known about the dangers or defects in the subject coffee press;
- f. Negligently concealing known dangers associated with the subject coffee press;
- g. Negligently operating the plant where the subject coffee press was manufactured; and
- h. Negligently failing to install quality control procedures, resulting in poor quality coffee press production and inspection.

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

COUNT III
NEGLIGENT DESIGN DEFECT

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

32. At the time the coffee press was designed, manufactured, and sold by Bodum, it was defective in design and unreasonably dangerous as designed, as the coffee press in question did not possess an adequately designed steel coil component in its plunger unit. Specifically, the steel coil used in the coffee press plunger assembly did not prevent uncoiling of the steel coil's end-piece, allowing the end-piece to become uncoiled and jut toward the outer portion of the plunger, coming into contact with the glass container during use.

33. There was a safer alternative design other than the one used, including the incorporation of a welded end-piece of the steel coil (preventing the possibility of uncoiling), which was economically and technologically feasible at the time of production and would have prevented or significantly reduced the risk of the accident and/or injury in question without substantially impairing the coffee press' utility.

34. Plaintiff in this case used his coffee press in a reasonably foreseeable manner and did so as substantially intended by Defendant.

35. The subject coffee press was not materially altered or modified after being manufactured by Defendant and before being used by Plaintiff.

36. As a direct and proximate result of Defendant's negligent design of its coffee press, the Plaintiff in this case suffered injuries and damages described herein.

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

COUNT IV
NEGLIGENT FAILURE TO WARN

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

38. At the time in which the Coffee press was purchased, up through the time Plaintiff was injured, Defendant knew or had reason to know that its Coffee press were dangerous and created an unreasonable risk of harm to consumers.

39. Defendant had a duty to exercise reasonable care to warn consumers of the dangerous conditions or the facts that made its coffee press likely to be dangerous.

40. As a direct and proximate result of Defendant's negligent failure to warn of the dangers of its Coffee press, the Plaintiff in this case suffered injuries and damages described herein.

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

DEMAND FOR JURY TRIAL

Plaintiff demands that all issues of fact of this case be tried to a properly impaneled jury to the extent permitted under the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendant for damages, to which he is entitled by law, as well as all costs of this action and interest 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 his injuries, economic losses and pain and suffering sustained as a result of the use of the Defendant's coffee press;
- c. pre and post judgment interest at the lawful rate;
- d. a trial by jury on all issues of the case;
- e. an award of attorneys' fees; and
- f. 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.

Date: February 10, 2023

Respectfully submitted,

**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC**

/s/ Randi Kassan, Esq.

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