

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JEAN HAVENS,

Docket No.: 6:22-cv-00290-MAD-TWD

Plaintiff,

- against -

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

WALMART, INC. f/k/a WAL-
MART STORES, INC.,

Defendant.

COMPLAINT

Plaintiff, **JEAN HAVENS** (hereafter referred to as “Plaintiff”), by and through her attorneys, **JOHNSON BECKER, PLLC** and **MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC**, hereby submit the following Complaint and Demand for Jury Trial against Defendant **WALMART, INC. f/k/a WAL-MART STORES, INC.**, (hereafter referred to as “Defendant Walmart”), and 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 seriously injured by a Farberware 7-in-1 programmable pressure cooker (hereafter generally referred to as “pressure cooker(s)”).

2. Walmart, Inc. f/k/a Wal-Mart Stores, Inc. (hereafter referred to as “Walmart” or “Defendant”) designs, manufactures, markets, imports, distributes and sells a wide range of consumer products, including the subject 7-in-1 programmable pressure cooker at issue in this case.

Join the hundreds of people holding manufacturers accountable for defective and unsafe pressure cookers by asserting your pressure cooker personal injury claim.

Pressure cooker manufacturers market their products as a quick, healthy and safe way to cook. However, the reality is that many of the pressure cookers on the market have serious design flaws that can lead to severe malfunctions. These malfunctions can cause steam and scalding hot liquids and food to explode out of the pressure cooker, burning the user and anyone nearby.

The pressure cooker litigation team at Johnson Becker is experienced at holding manufacturers responsible for defective products. Over the last four years, Johnson Becker has represented over 500 people in more than 40 states who have been burned by exploding pressure cookers. In addition, we have handled pressure cooker cases against virtually all of the major name-brand manufacturers.

Each pressure cooker lawsuit is dependent on its own unique facts, but our firm continues to successfully file lawsuits against the manufacturers of defective pressure cookers and obtain settlements for our clients. We believe that holding manufacturers responsible for our clients' injuries not only helps our clients, but prevents future injuries by forcing manufacturers to evaluate and improve the safety of their products.

What Our Clients Say About Us . . .

“Johnson Becker was so helpful and easy to work with. They were always immediately available to answer my questions and they kept me up to date every step of the way. All the staff were extremely compassionate and professional. If you need a firm to handle your litigation, I highly recommend Johnson Becker.” -*Sandy F.*

“My experience with Johnson and Becker especially working with Mr Adam and Mr Mike has been beyond explainable. They are an amazing team. Mr Adam has been in touch with me throughout the whole process, never left me wondering. This law firm has worked with me to get the best results and . . . everything they said they would do, they did it. I would highly recommend them to anyone who needs a great law firm.” -*Brenika L.*

“The service we received from Adam Kress and his team was outstanding. We came away feeling like we had a new friend. Our biggest surprise was that this company not only works on getting money for their clients, they actually care about getting unsafe products off the market. Thanks Johnson and Becker for making us feel like we helped make the world a little safer!” -*Ken C.*

Meet Our Pressure Cooker Attorneys:

Combined, they have over 55 years of experience holding manufacturers accountable when they choose to put profits over safety.

Michael Johnson

is a founding partner of Johnson Becker and the Co-Chair of its Consumer Products and Mass Tort Departments. Michael exclusively represents individuals across



the country injured by defective and dangerous products, with an emphasis on consumer goods. Michael has battled major product manufacturers at trial, in the appellate courts, and all the way to the U.S. Supreme Court.

Kenneth Pearson

is a partner at Johnson Becker. A graduate of Harvard Law School, Ken began his career representing product manufacturers.

He now draws on that experience to exclusively represent individuals seeking recovery for product-related personal injuries in state and federal courts nationwide.



Adam Kress

began his career at Johnson Becker in 2013, and has exclusively represented plaintiffs in product liability, personal injury and wrongful death claims. Adam co-chairs the firm's Consumer Products Department.



3. The subject programmable pressure cooker is a sublicensed product owned by Defendant Walmart.

4. On or about April 2, 2020, 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.

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

6. Defendant knew or should have known of these defects, but has nevertheless put profit ahead of safety by continuing to sell its pressure cookers to consumers, failing to warn said consumers of the serious risks posed by the defects, and failing to recall the dangerously defective pressure cookers regardless of the risk of significant injuries to Plaintiff and consumers like them.

PLAINTIFF JEAN HAVENS

7. Plaintiff Jean Havens is a resident and citizen of the village of West Winfield, County of Herkimer, State of New York, and was born on [REDACTED]

8. On or about April 2, 2020, Plaintiff suffered serious and substantial burn injuries as the direct and proximate result of the pressure cooker's lid being able to be rotated, removed, and/or opened while the pressure cooker was still under pressure, during the normal, directed use of the pressure cooker, allowing its scalding hot contents to be forcefully ejected from the pressure cooker and onto the Plaintiff. The incident occurred as a result of the failure of the pressure cooker's supposed "safety" features which purport to keep the consumer safe while using the pressure cooker. In addition, the incident occurred as the result of Defendant's failure to redesign the pressure cooker, despite the existence of economical, safer alternative designs.

DEFENDANT WALMART

9. Defendant Walmart designs, manufactures, markets, imports, distributes and sells a variety of consumer products, including the subject “Farberware 7-in-1” pressure cookers.

10. Defendant Walmart is incorporated in the State of Delaware. Defendant Walmart has a principal place of business located at 702 SW 8th St., Bentonville, AR 72716, and does business in all 50 states. Defendant Walmart is therefore deemed to be a resident and citizen of both the State of Delaware and the State of Arkansas for purposes of diversity jurisdiction under 28 U.S.C. § 1332.

11. At all times relevant, Defendant Walmart substantially participated in the design, manufacture, marketing, distribution and sale of the subject pressure cooker, which caused Plaintiff’s injuries and damages.

JURISDICTION AND VENUE

12. 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.

13. 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.

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

FACTUAL BACKGROUND

15. Defendant Walmart is engaged in the business of designing, manufacturing, warranting, marketing, importing, distributing and selling the pressure cookers at issue in the litigation.

16. Defendant Walmart warrants, markets, advertises and sells its pressure cookers as a means “to take the guesswork out of the most common cooking tasks.”¹

17. Defendant Walmart boasts that its pressure cookers have a “large locking lid to prevents [sic] the cooker from opening while pressurized,”² which purports to keep the user safe while cooking.

18. For example, according to the Owner’s Manual accompanying the individual unit sold, the pressure cookers are equipped with “important safeguards” that prevent the lid from unlocking until “the float valve drops down by itself.”³

19. By reason of the forgoing acts or omissions, the above-named Plaintiff and/or her family purchased 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.

20. On or about April 2, 2020, Plaintiff was using the pressure cooker designed, manufactured, marketed, imported, distributed and sold by Defendant Walmart for its intended and reasonably foreseeable purpose of cooking.

21. After the cooking cycle had completed and the steam was in the process of being released, the pressure cooker’s lid unexpectedly and suddenly blew off the pot in an explosive

¹ <https://www.walmart.com/ip/Farberware-Programmable-Digital-Pressure-Cooker-6-Quart/46543314> (last accessed March 24, 2022).

² *Id.*

³ Attached hereto as “Exhibit A” and incorporated by reference is the “Farberware 7-in-1 programmable pressure cooker” Owner’s Manual. *See*, e.g. pgs. 3, 11.

manner. The contents of the pressure cooker were forcefully ejected out of the pot and onto Plaintiff, causing severe, disfiguring burns to, *inter alia*, her breasts and arms.

22. Plaintiff and her family used the pressure cooker for its intended purpose of preparing meals and did so in a manner that was reasonable and foreseeable by the Defendant Walmart.

23. However, the aforementioned pressure cooker was defectively and negligently designed and manufactured by Defendant Walmart in that it failed to properly function as to prevent the lid from opening or being removed while the unit remained pressurized, 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.

24. Defendant Walmart's pressure cookers possess defects that make them unreasonably dangerous for their intended use by consumers because the lid can be rotated and opened while the unit remains pressurized.

25. Further, Defendant Walmart's representations about "safety" are not just misleading, they are flatly wrong, and put innocent consumers like Plaintiff directly in harm's way.

26. Economic, safer alternative designs were available that could have prevented the pressure cooker's lid from opening or being removed while pressurized.

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

28. Consequently, the Plaintiff in this case seeks compensatory damages resulting from the use of Defendant's pressure cooker as described above, which has caused the Plaintiff to suffer

from serious bodily injuries, medical expenses, physical pain, mental anguish, diminished enjoyment of life, and other damages.

CLAIMS FOR RELIEF

COUNT I
STRICT LIABILITY

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

30. At the time of Plaintiff's injuries, Defendant's Pressure Cookers were defective and unreasonably dangerous for use by foreseeable consumers, including Plaintiff.

31. Defendant's Pressure Cookers were in the same or substantially similar condition as when they left the possession of Defendant.

32. Plaintiff did not misuse or materially alter their respective Pressure Cookers.

33. 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.

34. 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 the aforementioned economical, safer alternatives, that could have prevented the Plaintiff' injuries and damages.

35. Defendant's actions and omissions were the direct and proximate cause of the Plaintiff's injuries and damages.

36. Defendant's conduct, as described above, was extreme and outrageous. Defendant risked the safety and well-being of the consumers and users of its Pressure Cookers, including the Plaintiff to this action, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the public. Defendant made conscious decisions not to redesign, warn or inform the unsuspecting consuming public. Defendant's outrageous conduct warrants an award of punitive damages according to proof, and to the extent applicable by law.

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

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

38. Defendant has 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.

39. 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.

40. Defendant was negligent in the design, manufacture, advertising, warning, marketing and sale of its Pressure Cookers in that, among other things, it:

- 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.

41. Despite the fact that Defendant knew or should have known that the lid could open while the Pressure Cookers were still pressurized, Defendant continued to market (and continues to do so) its Pressure Cookers to the general public.

42. Defendant's conduct, as described above, was extreme and outrageous. Defendant risked the safety and well-being of the consumers and users of its Pressure Cookers, including the Plaintiff to this action, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the public. Defendant made conscious decisions not to redesign, warn or inform the unsuspecting consuming public. Defendant's outrageous conduct warrants an award of punitive damages according to proof, and to the extent applicable by law.

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

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

44. Defendant is the manufacturer, seller, distributor, marketer, and supplier of the subject Pressure Cookers, which was negligently designed.

45. Defendant failed to exercise reasonable care in designing, developing,

manufacturing, inspecting, testing, packaging, selling, distributing, labeling, marketing, and promoting its Pressure Cookers, which were defective and presented an unreasonable risk of harm to consumers, such as the Plaintiff.

46. As a result, the subject Pressure Cookers, including Plaintiff's Pressure Cooker, contain defects in their design which renders them unreasonably dangerous to consumers, such as the Plaintiff, when used as intended or as reasonably foreseeable to Defendant. The defect in the design allows the Pressure Cooker's lid to open or be removed while the unit remains pressurized, and causes an unreasonable increased risk of injury, including, but not limited to, first, second and third-degree scald burns.

47. Plaintiff in this case used her Pressure Cooker in a reasonably foreseeable manner and did so as substantially intended by Defendant.

48. The subject Pressure Cooker was not materially altered or modified after being manufactured by Defendant and before being used by Plaintiff.

49. The design defects allowing the lid to open while the unit was still pressurized directly rendered the Pressure Cookers defective and were the direct and proximate result of Defendant's negligence and failure to use reasonable care in designing, testing, manufacturing, and promoting the Pressure Cookers.

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

51. Despite the fact that Defendant knew or should have known that the lid could open or be removed while the Pressure Cookers were still pressurized, Defendant continued to market its Pressure Cookers to the general public (and continues to do so).

52. Defendant's conduct, as described above, was extreme and outrageous. Defendant risked the safety and well-being of the consumers and users of its Pressure Cookers, including the

Plaintiff to this action, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the public. Defendant made conscious decisions not to redesign, warn or inform the unsuspecting consuming public. Defendant's outrageous conduct warrants an award of punitive damages according to proof, and to the extent applicable by law.

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

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

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

55. Defendant had a duty to exercise reasonable care to warn consumers of the dangerous conditions or the facts that made its Pressure Cookers likely to be dangerous.

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

57. Despite the fact that Defendant knew or should have known that the lid could open or be removed while the Pressure Cookers were still pressurized, Defendant continued to market its Pressure Cookers to the general public (and continues to do so).

58. Defendant's conduct, as described above, was extreme and outrageous. Defendant risked the safety and well-being of the consumers and users of its Pressure Cookers, including the Plaintiff to this action, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the public. Defendant made conscious decisions not to redesign, warn or inform

the unsuspecting consuming public. Defendant's outrageous conduct warrants an award of punitive damages according to proof, and to the extent applicable by law.

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 V
BREACH OF IMPLIED WARRANTY OF FITNESS
FOR A PARTICULAR PURPOSE

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

60. Defendant manufactured, supplied, and sold its Pressure Cookers with an implied warranty that they were fit for the particular purpose of cooking quickly, efficiently and safely.

61. Members of the consuming public, including consumers such as the Plaintiff, were the intended third-party beneficiaries of the warranty.

62. 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.

63. The Plaintiff in this case reasonably relied on Defendant's representations that its Pressure Cookers were a quick, effective and safe means of cooking.

64. 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.

65. Defendant's conduct, as described above, was extreme and outrageous. Defendant risked the safety and well-being of the consumers and users of its Pressure Cookers, including the Plaintiff to this action, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the public. Defendant made conscious decisions not to redesign, warn or inform the unsuspecting consuming public. Defendant's outrageous conduct warrants an award of punitive damages according to proof, and to the extent applicable by law.

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

COUNT VI
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

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

67. At the time Defendant marketed, distributed and sold its 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.

68. Members of the consuming public, including consumers such as the Plaintiff, were intended third-party beneficiaries of the warranty.

69. Defendant's Pressure Cookers were not merchantable and fit for its ordinary purpose, because they had the propensity to lead to the serious personal injuries as described herein in this Complaint.

70. Plaintiff purchased her Pressure Cooker with the reasonable expectation that it was properly designed and manufactured, free from defects of any kind, and that they were safe for its intended, foreseeable use of cooking.

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

72. Defendant's conduct, as described above, was extreme and outrageous. Defendant risked the safety and well-being of the consumers and users of its Pressure Cookers, including the Plaintiff to this action, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the public. Defendant made conscious decisions not to redesign, warn or inform

the unsuspecting consuming public. Defendant's outrageous conduct warrants an award of punitive damages according to proof, and to the extent applicable by law.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory, treble, and punitive 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, including exemplary damages if applicable, to which she 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 Pressure Cookers;
- c. pre and post judgment interest at the lawful rate;
- d. exemplary/punitive damages on all applicable Counts, if applicable, 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.

Date: March 29, 2022

Respectfully submitted,

**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC**

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