

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TAMMY MORRISON,

Docket No.:

Plaintiff,

v.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

SHARKNINJA OPERATING, LLC,

Defendant.

COMPLAINT

Plaintiff, **TAMMY MORRISON**, (hereafter referred to as “Plaintiff”), by and through her undersigned counsel, **JOHNSON BECKER, PLLC** and **CLARK VON PLONSKI ANDERSON**, hereby submits the following Complaint and Demand for Jury Trial against Defendant **SHARKNINJA OPERATING, LLC** (hereafter referred to as “Defendant SharkNinja” and “Defendant”), alleges the following upon personal knowledge and belief, and investigation of counsel:

NATURE OF THE CASE

1. Defendant SharkaNinja Operating, LLC manufactures, markets, imports, distributes and sell a wide-range of consumer products, including the subject “Foodi Deluxe Tendercrisp Pressure Cooker,” which specifically includes the OP401BRN model (referred to hereafter as “pressure cooker(s)” or “Subject Pressure Cooker”) that is at issue in this case.
2. On or about February 17, 2021, 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, physical pain, mental anguish, and diminished enjoyment of life.

PLAINTIFF TAMMY MORRISON

4. Plaintiff Tammy Morrison is a resident and citizen of the city of Tomball, County of Harris, State of Texas. Plaintiff therefore is a resident and citizen of the State of Texas for purposes of diversity pursuant to 28 U.S.C. § 1332.

5. On or about February 17, 2021, Plaintiff's daughter was using the pressure cooker designed, manufactured, marketed, imported, distributed and sold by Defendant SharkNinja for its intended and reasonably foreseeable purpose of cooking.

6. While the pressure cooker was in use for cooking, the pressure cooker's lid unexpectedly and suddenly blew off the pot in explosive manner. The contents of the pressure cooker were forcefully ejected out of the pot and onto Plaintiff, causing severe, disfiguring burns.

DEFENDANT SHARKNINJA OPERATING, LLC

7. Defendant SharkNinja designs, manufacturers, markets, imports, distributes and sells a variety of consumer products, including the subject "Ninja Foodi Deluxe" pressure cookers.

8. Defendant SharkNinja is a Massachusetts Limited Liability Company incorporated in the State of Delaware and has a principal place of business located at 89 A St. # 100, Needham, MA 02494. Defendant SharkNinja has a registered service address Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

9. At the time of Plaintiff's injuries and the filing of this lawsuit, the sole member of SharkNinja Operating, LLC was EP Midco, LLC, a Massachusetts Limited Liability Company

created and organized under the law of the State of Delaware and located at 89 A St. # 100, Needham, MA 02494.

10. At the time of Plaintiff's injuries and the filing of this lawsuit, the sole member of EP Midco, LLC was Brian Lagarto.

11. Mr. Lagarto is a resident and citizen of the state of Massachusetts, and operates out of his principal places of business, 180 Wells Avenue, Suite 200, Newton, Massachusetts, 02459.

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 in that 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 Texas and intentionally availed itself of the markets within the State of Texas through the promotion, sale, marketing, and distribution of its products.

FACTUAL BACKGROUND

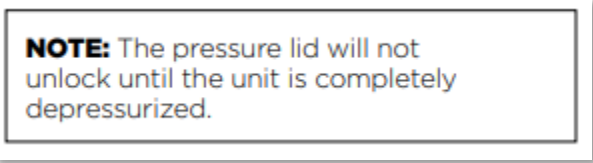
15. Defendant SharkNinja is engaged in the business of designing, manufacturing, warranting, marketing, importing, distributing and selling the pressure cookers at issue in this litigation.

16. Defendant SharkNinja warrants, markets, advertises and sell its pressure cookers as a means to make cooking "easy" and "convenient," allowing consumers to "cook 70% faster than traditional cooking method[s]." ¹

¹ <https://www.ninjakitchen.com/pressure-cookers/> (last accessed February 16, 2023)

17. Defendant SharkNinja boasts that its pressure cookers have “14 safety features,”² which purport to keep the user safe while cooking.

18. For example, according to the Owner’s Guide accompanying each individual unit sold, the pressure cookers come equipped with safety features that prevent the lid from being removed until the unit has “completely depressurized”³:



NOTE: The pressure lid will not unlock until the unit is completely depressurized.

See, Ninja OP400 Series Owner’s Guide, pg. 16.

19. The Owner’s Guide further states that, “[a]s the unit pressurizes, the lid will lock as a safety measure, and it will not unlock until pressure is released”⁴ and that “[a]s a safety feature, the pressure lid will not unlock until the unit is completely depressurized...When the steam is completely released, the unit will be ready to open.”⁵

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

21. On or about February 17, 2021, Plaintiff’s daughter was using the pressure cooker designed, manufactured, marketed, imported, distributed and sold by Defendant SharkNinja for its intended and reasonably foreseeable purpose of cooking for her family.

² *Id.*

³ *See* Ninja OP400 Series Owner’s Guide, pg. 16. A copy of the Owner’s Guide is attached hereto as “Exhibit A.”

⁴ *Id.* at pg. 15.

⁵ *Id.* at pg. 22.

22. 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, disfiguring burns.

23. 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 SharkNinja.

24. However, the aforementioned pressure cooker was defectively and negligently designed and manufactured by the Defendant SharkNinja in that it failed to properly function as to prevent the lid from being removed with normal force while the unit remained pressurized, despite the appearance that all the pressure had been released, 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.

25. Defendant SharkNinja'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.

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

27. Economic, safer alternative designs were available that could have prevented the pressure cooker's lid from being rotated and opened while pressurized.

28. As a direct and proximate result of Defendant'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 and her daughter used an unreasonably dangerous pressure cooker, which resulted in significant and painful bodily injuries to Plaintiff.

29. Consequently, the Plaintiff in this case seeks compensatory damages resulting from the use of Defendant SharkNinja'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**

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

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

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

33. Plaintiff and her daughter did not misuse or materially alter the pressure cooker.

34. 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.

35. Further, a reasonable person would conclude that the possibility and serious 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's injuries and damages.

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

WHEREFORE, Plaintiff demands judgment in her favor and against Defendant SharkNinja for damages, together with interest, costs of suit, attorneys' fees, 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 SharkNinja 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 SharkNinja 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 SharkNinja 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 SharkNinja 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 (and continues to do so).

WHEREFORE, Plaintiff demands judgment in her favor and against Defendant SharkNinja 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

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

43. 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.

44. Members of the consuming public, including consumers such as the Plaintiff and her daughter, were the intended third-party beneficiaries of the warranty.

45. Defendant SharkNinja'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.

46. Plaintiff and her daughter reasonably relied on Defendant's representations that its pressure cookers were a quick, effective and safe means of cooking.

47. 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 in her favor and against Defendant SharkNinja 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

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

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

50. Members of the consuming public, including consumers such as the Plaintiff and her daughter, were intended third-party beneficiaries of the warranty.

51. Defendant SharkNinja's pressure cookers were not merchantable and fit for their ordinary purpose, because they had the propensity to lead to the serious personal injuries as described herein in this Complaint.

52. Plaintiff and her daughter 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.

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

WHEREFORE, Plaintiff demands judgment in her favor and against Defendant SharkNinja 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 Defendant SharkNinja for damages, including exemplary damages if applicable, to which she 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 SharkNinja's pressure cookers;
- 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.

Respectfully submitted,

CLARK | VON PLONSKI | ANDERSON

Date: February 13, 2023

/s/ Collen A. Clark, Esq.

Collen A. Clark, Esq.

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