

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

FILED

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BARBARA DUNN, CIRCUIT CLERK
BY _____ D.C.

MARISSA WELLS AND DERRICK WELLS,
INDIVIDUALLY AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES OF
KENDRIA WELLS, DECEASED;

PLAINTIFFS

CEDRICK LOWERY, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF TRINITY WELLS, DECEASED

CIVIL ACTION NUMBER: 2511-1010 CIV

v.

MICHELIN NORTH AMERICA, INC.;
TANJA WELLS; GRACO CHILDREN'S PRODUCTS INC.;
and DOES 1-10

DEFENDANTS

COMPLAINT
(Jury Trial Demanded)

Come now the Plaintiffs and file this Complaint against the Defendants and allege the following:

PLAINTIFFS

1. Plaintiffs Derrick Wells and Marissa Wells are adult resident citizens of the State of Mississippi.

2. Plaintiffs Derrick Wells and Marissa Wells are the natural parents of Kendria Wells, deceased. They bring this action individually and on behalf of all the wrongful death beneficiaries of Kendria Wells.

3. Plaintiff Cedrick Lowery is an adult resident citizen of the State of Mississippi.

4. Cedrick Lowery is the natural father of Trinity Wells, deceased. He brings this action individually and on behalf of all the wrongful death beneficiaries of Trinity Wells.

DEFENDANTS

5. Defendant Michelin North America, Inc. (Michelin) is a New York corporation with its headquarters located in Greenville, South Carolina.

6. Michelin may be served with process through its registered agent in the State of Mississippi: CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

7. Defendant Graco Children's Products Inc. (Graco) is a Delaware corporation headquartered in Exton, Pennsylvania.

8. Graco may be served through its registered agent for service of process: Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

9. Graco is not authorized to do business in the State of Mississippi but is, in fact, doing business in the State of Mississippi.

10. Defendant Tanja Wells is an adult resident citizen of the State of Mississippi.

11. Defendants John Does 1-10 are corporations, entities, agencies, businesses, individuals, and the like which are

presently unknown to the plaintiffs but whose negligent acts and/or omissions proximately caused the plaintiffs' injuries and damages. Plaintiffs will amend this Complaint to allege the true capacity of these parties when they are ascertained. Plaintiffs are informed and believe that each of the Defendants designated herein as unknown is responsible in some manner for the occurrences herein alleged that proximately contributed to the damages set forth herein.

JURISDICTION AND VENUE

12. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Michelin, as Michelin is qualified to do business in the State of Mississippi.

13. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Tanja Wells, a Mississippi resident.

14. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Graco pursuant to the Mississippi Long-Arm Statute, Mississippi Code Annotated § 13-3-57. The Mississippi Long-Arm Statute provides in relevant part:

Any nonresident person, firm, general or limited partnership, or any foreign or other corporation not qualified under the Constitution and

laws of this state as to doing business herein, who shall make a contract with a resident of this state to be performed in whole or in part by any party in this state, or who shall commit a tort in whole or in part in this state against a resident or nonresident of this state, or who shall do any business or perform any character of work or service in this state, shall by such act or acts be deemed to be doing business in Mississippi and shall thereby be subjected to the jurisdiction of the courts of this state.

15. Defendant Graco, a foreign corporation not qualified to do business under the Constitution and laws of Mississippi, committed a tort in Mississippi against Trinity Wells, a Mississippi resident.

16. The damages sustained by the plaintiffs occurred in the State of Mississippi.

17. Defendant Graco has sufficient minimum contacts with Mississippi such that maintenance of this suit in the Circuit Court of the First Judicial District of Hinds County, Mississippi does not offend traditional notions of fair play and substantial justice.

18. Venue is proper in the Circuit Court of the First Judicial District of Hinds County, Mississippi pursuant to Miss. Code Ann. § 11-11-3 which provides that civil actions alleging a defective product may be commenced in the county where the injury occurred.

19. The injuries described in this complaint occurred in the First Judicial District of Hinds County, Mississippi.

FACTUAL BACKGROUND

20. On March 19, 2011 Tanja Wells was driving a 2001 Chevrolet Suburban on Interstate 220 in the First Judicial District of Hinds County, Mississippi.

21. Trinity Wells, who was eight months old, was properly restrained in the Suburban in a Graco Snug Ride, Model 7440CNR2; Serial Number JJ0304062624.

22. Kendria Wells was properly restrained in the Suburban in a belt-positioning booster seat.

23. The left rear tire on the Suburban was a Michelin tire.

24. While Tanja Wells was driving the Suburban within the First Judicial District of Hinds County, Mississippi, the subject Michelin left rear tire catastrophically failed and the Suburban crashed.

25. Kendria Wells and Trinity Wells were killed.

LIABILITY OF TANJA WELLS

26. Tanja Wells, the driver of the Suburban, negligently failed to maintain proper control of the vehicle on March 19, 2011 and allowed the Suburban to crash.

27. The negligence of Tanja Wells in failing to maintain proper control of the Suburban was a proximate contributing cause of the damages described herein.

LIABILITY OF MICHELIN

28. Michelin designed, manufactured, marketed, and/or sold the tire that failed on March 19, 2011.

29. The defective tire at issue is a Uniroyal Liberator All-Terrain tire.

30. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63 in that the tire deviated in a material way from the manufacturer's specifications or from otherwise identical units manufactured to the same manufacturing specifications.

31. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63 in that the tire was designed in a defective manner, and the defective condition rendered the tire unreasonably dangerous to the user or consumer.

32. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63 in that Michelin failed to provide adequate warnings and instructions regarding the safe use and maintenance of the tire.

33. At the time the subject tire left the control of Michelin, Michelin knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the dangerous manufacturing, design, and warning defects in the subject tire.

34. Michelin negligently failed to recall the subject tire when it knew, or in the exercise of reasonable care should have known, of the dangerous defects that existed in the tire.

OUTRAGEOUS CONDUCT OF MICHELIN

35. Michelin participated and engaged in a deliberate course of corporate conduct that concealed the nature and extent of the defective design, manufacture, and warnings associated with this tire. The concerted actions of Michelin were designed to and did, in fact, conceal the defective nature and qualities of the tire.

36. The conduct of Michelin was a proximate contributing cause of the damages described herein.

LIABILITY OF GRACO

37. Graco designed, manufactured, marketed, and/or sold the subject Snug Ride child safety seat Trinity was riding in on March 19, 2011 when she was killed.

38. The subject Snug Ride is defective pursuant to Mississippi Code Annotated § 11-1-63 in that the Snug Ride was designed in a defective manner, and the defective condition rendered the Snug Ride unreasonably dangerous to the user or consumer.

39. The subject Snug Ride is defective pursuant to

Mississippi Code Annotated § 11-1-63 in that the Snug Ride does not contain adequate warnings and instructions regarding the safe use of the Snug Ride.

40. At the time the Snug Ride left the control of Graco this defendant knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the dangerous design and warning defects of the Snug Ride.

41. Graco negligently failed to recall the subject Snug Ride when it knew, or in the exercise of reasonable care should have know, this product was defective, unreasonably dangerous, and should not be used.

OUTRAGEOUS CONDUCT OF GRACO

42. Graco participated and engaged in a deliberate course of corporate conduct that concealed the nature and extent of the defective design and warnings associated with the Snug Ride. The concerted actions of Graco were designed to and did, in fact, conceal the defective nature and qualities of the Snug Ride.

43. The conduct of Graco was a proximate contributing cause of the damages for which recovery is sought.

DAMAGES

44. The wrongful death beneficiaries of Kendria Wells are entitled to a verdict against the responsible defendants named

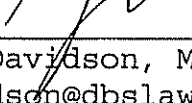
herein for all damages allowable under Mississippi law for the wrongful death of Kendria Wells.

45. The wrongful death beneficiaries of Trinity Wells are entitled to a verdict against the responsible defendants named herein for all damages allowable under Mississippi law for the wrongful death of Trinity Wells.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, plaintiffs pray for general relief, and demand a jury trial in the First Judicial District of Hinds County, Mississippi and seek an award to be determined by the jury for all damages, fees, and costs of whatever kind and type available under Mississippi law against the defendants as a result of the conduct described herein.

Respectfully Submitted
Plaintiffs

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