

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
MARQUETTE DIVISION**

MAURICE BRADY, JR.	§	
	§	
Plaintiff,	§	Case No.
	§	
v.	§	
	§	
REXON INDUSTRIAL CORP. AND POWER TOOL SPECIALISTS, INC.,	§	
	§	
Defendants	§	

PLAINTIFF'S COMPLAINT AND JURY DEMAND

Plaintiff MAURICE BRADY, JR. hereby files the instant Complaint and Jury Demand against Defendants REXON INDUSTRIAL CORP. AND POWER TOOL SPECIALISTS and states as follows:

PARTIES

1. Plaintiff Maurice Brady, Jr. resides at 1983 Werner Street, Marquette, MI 49855 and is a citizen and resident of Michigan.

2. Defendant Rexon Industrial Corp. is a foreign corporation maintaining its principal place of business in Tacyuan, Taiwan and is a designer, manufacturer, distributor and seller of power tools, including tools sold under the Task Force brand. It may be served with process through its U.S. subsidiary, Power Tools Specialists, Inc., at 684 Huey Road, Rock Hill, South Carolina 29730 .

3. Defendant Power Tools Specialists, Inc. is a Massachusetts corporation with its principal place of business located at 684 Huey Road, Rock Hill, South Carolina, 29730 where it may be served with process.

JURISDICTION AND VENUE

4. This Court has jurisdiction over Defendants and this action pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between Plaintiff and Defendants. The amount in controversy exceeds \$75,000 exclusive of interest and costs. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because because a substantial part of the acts and/or omissions giving rise to these claims occurred within this district. Defendants have engaged in the business of designing, manufacturing, distributing and selling the Porter Cable table saw in the City of Marquette, Michigan.

FACTS

5. This suit arises out of the serious and permanent personal injuries suffered by Plaintiff due to the wrongful conduct of Defendants in designing, manufacturing, distributing and selling a Porter Cable PCB220TS table saw, Serial No. 084849, Mfg. Date 0112 (the “Subject Saw”).

6. The Subject Saw, like all table saws sold in the United States, is required to be sold with a blade guard. Previous blade guards were extremely difficult to use and had to be completely removed for a user to make certain cuts with the saw. Once removed, it was extremely difficult to reattach the blade guard. Thus, it became common practice for users of the saws to either assemble the saw without the guard or to remove the guard and leave it permanently off the machine while using the table saw. This widespread practice was well known by Defendants.

7. The Subject Saw was equipped with a newer, modular guard system. Despite its advantages over the prior three-in-one blade guard design, users of the Subject Saw had become accustomed to removing the blade guard from their saws due to the inadequacies of the prior

blade guard system. In order to overcome this learned habit, Defendants should have equipped the Subject Saw with an interlock for the guard that requires acknowledgement by the user that the guard is, or is not, in the protective position and requires the user to bypass the interlock if the guard is not in use. Defendants could also have improved the modular guard system by making the attachment of the riving knife to the saw permanent so it will always be in use. These improvements were both technologically and economically feasible at the time the Subject Saw was designed, manufactured, distributed and sold. Because it lacked such technology, the Subject Saw was unreasonably dangerous as designed and manufactured. In addition, Defendants should have undertaken efforts to inform and educate the public about the differences between the old and new guards and the advantages of the new guard. By failing to do so, Defendants were negligent.

8. For many years other technology has been available that would have eliminated or reduced Plaintiff's injury. Such technology, known as SawStop, stops the spinning saw blade almost instantly upon contact with human skin.

9. In or around November 2000, at a meeting of the Power tool Institute ("PTI") of which Defendants were members, Defendants were made aware of flesh-sensing technology that stops a spinning table saw blade almost instantly upon contact with human skin. At the time of the meeting, Stephen Gass, the inventor of the SawStop technology, offered to make the technology available to Defendants through a licensing agreement. The technology was feasible for incorporation into the Subject Saw.

10. Defendants, and other table saw manufacturers, failed to pursue a license of the available SawStop technology or to incorporate similar technology into the Subject Saw. As a result, the Subject Saw had no flesh-detecting technology or other similar technology that would

stop a spinning saw blade upon contact with human skin. Because it lacked such technology, the Subject Saw was unreasonably dangerous as designed and manufactured.

11. On or about July 17, 2013, while using the Subject Saw in the reasonable, foreseeable and intended manner, Plaintiff suffered severe and permanent personal injuries caused by contact between his fingers and the Subject Saw's rotating blade. The wrongful acts of Defendants set forth above were a legal cause of Plaintiff's physical pain, mental anguish, physical disfigurement, and physical impairment. The Plaintiff incurred economic loss in the form of medical care and treatment; lost wages. He further lost his ability to engage in usual and normal activities. At the time of his injury, Plaintiff was acting reasonably and was exercising all due care for his own safety.

CAUSES OF ACTION

FIRST CAUSE OF ACTION -- PRODUCT LIABILITY: DESIGN DEFECT

12. Plaintiff re-alleges Paragraphs 1 through 11 and incorporates them herein by reference.

13. Defendants at all times material hereto engaged in the business of designing, manufacturing, assembling, selling, marketing, and/or supplying the Subject Saw. The Subject Saw was in a defective condition at the time that it was designed, manufactured, sold, and/or marketed by Defendants and at the time it left Defendants' possession. The Subject Saw was expected to and reached Plaintiff without any substantial change in its condition and the Subject Saw was in the possession of Defendants at the time the defect occurred.

14. The condition of the Subject Saw made it unreasonably dangerous for its intended use. Plaintiff was a user of the Subject Saw and was unaware of the defect and used the Subject

Saw in a reasonable, foreseeable and intended manner. The injury suffered by Plaintiff was the exact type of substantial harm that can be caused by a defective table saw.

15. The Subject Saw was not reasonably safe for its intended use when it left the control of Defendants. The benefits of the design of the Subject Saw do not outweigh the risk of danger inherent in such design. Moreover, Defendants could have provided a safer alternative design into the Subject Saw. Such a safer alternative design was feasible at the time the Subject Saw was manufactured, would have prevented Plaintiff's injury and would not have significantly impaired the usefulness or desirability of the Subject Saw. Such safer alternative design was economically and technologically feasible at the time the product left the control of Defendants by the application of existing or reasonably achievable scientific knowledge. The Subject Saw's defective design was a proximate cause of Plaintiff's injuries and damages.

16. The defective and unreasonably dangerous condition of the Subject Saw was a legal cause and proximate cause of Plaintiff's injury and of his resulting physical pain, mental anguish, physical disfigurement, physical impairment, medical care and treatment, lost wages and loss of his ability to engage in usual and normal activities.

17. For these reasons, Defendants are strictly liable under Michigan product liability law without regard to proof of negligence or gross negligence.

WHEREFORE, Plaintiff prays that the Court enter judgment against Defendants for the damages set forth herein as well as pre-judgment and post-judgment interest and costs of suit and that the Court grant Plaintiff such other and further relief to which he may be justly entitled.

SECOND CAUSE OF ACTION -- NEGLIGENCE

18. Plaintiff re-alleges the consistent allegations in Paragraphs 1 through 11 and incorporates them herein by reference.

19. Defendants had a duty to exercise reasonable care, and to comply with the then existing standards of care, in the design, manufacture, marketing, testing, approval, application for approval, inspection, sale and distribution of the Subject Saw into the stream of commerce.

20. Defendants failed to exercise ordinary care, and deviated from then existing standards of care, in the design, manufacture, marketing, testing, inspection, sale and/or distribution of the Subject Saw into interstate commerce and thus Defendants were negligent in all of these areas. As a result of the negligence of Defendants, the Subject Saw was unreasonably dangerous for its ordinary and foreseeable use at the time it left the possession of Defendant.

21. Defendants' negligence was a proximate cause of Plaintiff's injury. Had the Defendant not been negligent, the Plaintiff would not have been injured.

22. As a proximate cause of the Defendant's negligence, the Plaintiff suffered physical pain, mental anguish, physical disfigurement, physical impairment, medical care and treatment, lost wages and loss of his ability to engage in usual and normal activities.

WHEREFORE, Plaintiff prays that the Court enter judgment against Defendants for the damages set forth herein as well as post-judgment interest and costs of suit and that the Court grant Plaintiff such other and further relief to which he may be justly entitled.

JURY DEMAND

The plaintiff requests a jury trial on all triable issues raised herein.

Respectfully submitted,

PASKEL, TASMAN & WALKER, P.C.

BY: /s/ Michael J. Cantor
MICHAEL J. CANTOR P25980
Attorneys for Plaintiff
24445 Northwestern Highway
Suite 102
Southfield, MI 48075
(248) 353-7750

Pro Hac Vice admission to be sought for:

Eric D. Pearson, Esq.
John K. Chapman, Esq.
HEYGOOD, ORR & PEARSON
2331 West Northwest Highway, 2nd Floor
Dallas, TX 75220
(214) 237-9001
(214) 237-9002 (Fax)
eric@hop-law.com
jchapman@hop-law.com