

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 1:15-cv-22364

SERGUEI TCHERNYKH AND  
LILIYA BEKTEVA,

Plaintiffs,

v.

BED BATH & BEYOND, INC., and  
TRISTAR PRODUCTS, INC.,

Defendants.

---

**COMPLAINT**

*{Jury Trial Demanded}*

Plaintiffs, LILIYA BEKTEVA and SERGUEI TCHERNYKH (hereinafter "Plaintiffs"), by and through undersigned counsel, sue Defendants, BED BATH & BEYOND, INC., and TRISTAR PRODUCTS, INC, and upon information and belief allege as follows:

**JURISDICTION, VENUE, and PARTIES**

1. The Court has diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) because the lawsuit involves a controversy between parties of diverse citizenship and the amount in controversy exceeds \$75,000.00.
2. Plaintiffs LILIYA BEKTEVA and SERGUEI TCHERNYKH are individuals who resided in Miami-Dade County, Florida, at the time of this cause of action arose, and who presently reside in said jurisdiction.
3. Defendant BED BATH & BEYOND, INC. ("BBB"), is incorporated under the laws of the State of New Jersey, with its principal place of business in New Jersey.

4. Defendat TRISTAR PRODUCTS, INC. ("Tristar"), in incorporated under the laws of the State of Pennsylvania, with its principal place of business in Fairfield, New Jersey.

5. Venue is proper in under 28 U.S.C. § 1391 in that a substantial part of the events or omissions giving rise to the claim occurred in the Southern District of Florida.

#### **GENERAL ALLEGATIONS**

6. On or about September 30, 2015, Plaintiffs purchased a Power Cooker XL, Model No. PPC 770 ("the Pressure Cooker"), which was manufactured and distributed by Defendant Tristar. The purchase of the Pressure Cooker was made at BBB in Aventura, Florida at 19205 Biscayne Blvd.

7. As a result of a malfunction of the subject Pressure Cooker, Plaintiffs sustained severe burns.

8. At all materials times, Defendants by and through their agents, servants, workers, and/or employees, designed, manufactured, sold, distributed, modified, and/or assembled the subject Pressure Cooker, and these Defendants distributed, advertised, and sold these pressure cookers for general use by the public, including the Plaintiffs.

9. The events complained of herein occurred on or about October 19, 2014, at the residence of the Plaintiff SERGUEI TCHERNYKH in Sunny Isles, Florida.

10. When Defendants sold and/or distributed the subject Pressure Cooker, it was expected to and did reach its eventual consumer, without substantial change in its condition.

11. At the time of the sale and distribution of the product by the Defendants, it was in a defective condition, which defect was the proximate cause of the injuries and damages sustained by the Plaintiffs, and for which Defendants are strictly liable.

12. Plaintiffs did not change or alter the condition of the Pressure Cooker from the time of its purchase in BBB until the accident occurred on or about October 19,



of information to Plaintiffs and failed to exercise reasonable care in communicating untrue information regarding the safety and functionality of the Pressure Cooker, which Plaintiffs relied upon.

20. The specific negligent manufacturing or design on the part of TRISTAR rests in facts that are within the knowledge of TRISTAR. Plaintiffs further rely on the doctrine of *Res Ipsa Loquitur*. Plaintiffs will show that the character of the occurrence giving rise to this litigation is such that it would not happen in the absence of Defendant's negligence and that the design and manufacture of the subject Pressure Cooker was within the exclusive control of TRISTAR at the time the negligence occurred.

21. Plaintiffs had no control over the method or manner in which the product was designed, manufactured, or cautioned and it came to Plaintiffs' possession in the same condition it was in when it left the control of Defendants.

22. TRISTAR were negligent in the design or manufacture of the Pressure Cooker, which negligence was the proximate cause of the injuries and damages sustained by Plaintiffs.

23. As a direct and proximate result of the aforementioned negligence of TRISTAR, Plaintiffs suffered permanent bodily injuries, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiffs will suffer the losses in the future.

**WHEREFORE**, Plaintiffs, LILIYA BEKTEVA and SERGUEI TCHERNYKH, demand judgment against all the Defendants, individually and collectively, for compensatory damages in excess of the jurisdictional limits of this Court, together with





30. BBB failed to exercise reasonable care in determining the accuracy of information to Plaintiffs and failed to exercise reasonable care in communicating untrue information regarding the safety and functionality of the Pressure Cooker, which Plaintiffs relied upon.

31. The specific negligent manufacturing or design on the part of BBB rests in facts that are within the knowledge of BBB. Plaintiffs rely on the doctrine of *Res Ipsa Loquitor*. Plaintiffs will show that the character of the occurrence giving rise to this litigation is such that it would not happen in the absence of Defendant's negligence and that the design and manufacture of the subject Pressure Cooker was within the exclusive control of Defendants at the time the negligence occurred.

32. Plaintiffs had no control over the method or manner in which the product was designed, manufactured, or cautioned and it came to Plaintiffs' possession in the same condition it was in when it left the control of Defendants.

33. BBB was negligent in the design or manufacture of the Pressure Cooker, which negligence was the proximate cause of the injuries and damages sustained by Plaintiffs.

34. As a direct and proximate result of the aforementioned negligence of BBB, Plaintiffs suffered permanent bodily injuries, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiffs will suffer the losses in the future.

**WHEREFORE**, Plaintiffs, LILIYA BEKTEVA and SERGUEI TCHERNYKH, demand judgment against the Defendants, individually and collectively, for compensatory damages in excess of the jurisdictional limits of this Court, together with interest, economic damages, and for such other relief as this Honorable Court may deem just and proper.

██████████ ██████████ ██████████ ██████████ ██████████

**COUNT III- BREACH OF WARRANTY AGAINST TRISTAR**

35. Plaintiffs incorporate the facts and allegations contained in Paragraphs 1 - 12 of this Complaint as if fully set forth herein

36. The defect in the Pressure Cooker does not conform to the merchantable condition impliedly represented by TRISTAR at the time that the Pressure Cooker was sold and received by Plaintiffs.

37. TRISTAR impliedly warranted to the public generally and to Plaintiffs specifically that the Pressure Cooker was of merchantable quality. TRISTAR was a merchant with respect to the Pressure Cooker and the Pressure Cooker was not merchantable as warranted.

38. TRISTAR impliedly warranted to the public generally and to Plaintiff specifically that the Pressure Cooker was safe and fit for the purpose intended when used under ordinary circumstances and in an ordinary manner. TRISTAR knew, or reasonably should have known, of the purpose for which Plaintiff purchased the Pressure Cooker, that Plaintiffs were relying on the TRISTAR's skill and judgment to select and furnish a suitable product, and that the Pressure Cooker was unfit for the purpose for which it was intended to be used. TRISTAR's breaches of warranty, taken singularly or in combination, were a legal cause of the Plaintiffs' injuries and damages.

39. As a direct and proximate result of the aforementioned breaches of warranty, Plaintiffs suffered permanent, catastrophic bodily injuries, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiffs will suffer the losses in the future.





life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiffs will suffer the losses in the future.

**WHEREFORE**, Plaintiffs, LILIYA BEKTEVA and SERGUEI TCHERNYKH, demand judgment against all the Defendants, individually and collectively, for compensatory damages in excess of the jurisdictional limits of this Court, together with interest, economic damages, and for such other relief as this Honorable Court may deem just and proper.

**COUNT V – STRICT PRODUCTS LIABILITY AGAINST TRISTAR**

45. Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1 - 12 as if fully set forth herein.

46. TRISTAR designed, researched, developed, manufactured, tested, advertised, promoted, marketed sold, and/or distributed the subject Pressure Cooker. The Pressure Cooker as designed, researched, developed, manufactured, tested, advertised, promoted, marketed, sold, and/or distributed by TRISTAR, was in an unsafe, defective, and unreasonably dangerous condition which was hazardous to users. The Pressure Cooker was in this unsafe condition at the time it left TRISTAR's possession.

47. The Pressure Cooker was expected to, and did, reach the usual consumers (including Plaintiffs), handlers, and persons coming into contact with the Pressure Cooker without substantial change in the condition in which it was designed, produced, manufactured, sold, distributed, and marketed by TRISTAR.

48. Plaintiffs were injured while using the Pressure Cooker for its intended purpose, in accordance with the instructions that accompanied the product, and in a manner foreseeable to Defendants.





interest, economic damages, and for such other relief as this Honorable Court may deem just and proper.

**COUNT VI – STRICT PRODUCTS LIABILITY AGAINST BBB**

55. Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1 - 12 as if fully set forth herein.

56. BBB designed, researched, developed, manufactured, tested, advertised, promoted, marketed sold, and/or distributed the subject Pressure Cooker. The Pressure Cooker as designed, researched, developed, manufactured, tested, advertised, promoted, marketed, sold, and/or distributed by BBB, was in an unsafe, defective, and unreasonably dangerous condition which was hazardous to users. The Pressure cooker was in this unsafe condition at the time it left BBB's possession.

57. The Pressure Cooker was expected to, and did, reach the usual consumers (including Plaintiffs), handlers, and persons coming into contact with the Pressure Cooker without substantial change in the condition in which it was designed, produced, manufactured, sold, distributed, and marketed by BBB.

58. Plaintiffs were injured while using the Pressure Cooker for its intended purpose, in accordance with the instructions that accompanied the product, and in a manner foreseeable to BBB.

59. However, the Pressure Cooker failed to perform as safely as an ordinary consumer would reasonably expect.

60. The BBB's failure to design, manufacture, market, and sell a safe pressure cooker was the proximate cause of Plaintiffs' injuries and damages.

61. Additionally, as a direct and proximate result of BBB's placement of the defective Pressure Cooker into the stream of commerce, Plaintiffs suffered permanent, catastrophic bodily injuries, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization,



medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiffs will suffer the losses in the future.

62. BBB knew or should have known that the Pressure Cooker was defective and unsafe, especially when used in the form and manner BBB intended and demonstrated.

63. BBB had a duty to design, manufacture, market, and sell a product that was not unreasonably dangerous for its normal, intended use.

64. BBB knew or should have known that the Pressure Cooker was defective and unsafe, and with this knowledge, BBB voluntarily designed, manufactured, marketed, and sold their products in a defective condition for use by the public.

65. Because BBB designed, researched, developed, manufactured, tested, advertised, promoted, marketed, sold and distributed a defective product, which when used in its intended or reasonably foreseeable manner, created an unreasonable risk to consumers and to Plaintiffs, BBB is strictly liable for the injuries Plaintiffs sustained.

**WHEREFORE**, Plaintiffs, LILIYA BEKTEVA and SERGUEI TCHERNYKH, demand judgment against all the Defendants, individually and collectively, for compensatory damages in excess of the jurisdictional limits of this Court, together with interest, economic damages, and for such other relief as this Honorable Court may deem just and proper.



**JURY TRIAL DEMAND**

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

Signed this 23<sup>rd</sup> day of June, 2015.

Respectfully Submitted,

[REDACTED]

[REDACTED]

[REDACTED]