

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ARIANA SWARTZ,

THE HON.

Plaintiff,

CASE NO

vs.

THE PROCTOR AND GAMBLE
MANUFACTURING COMPANY &
GABLE DISTRIBUTING, LLC,

Defendants.

NORMAN YATOOMA & ASSOCIATES, PC

Norman A. Yatooma (P54746)

Lisa M. Gray (P74841)

Attorneys for Plaintiff

1615 South Telegraph Road, Suite 300

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COMPLAINT AND DEMAND FOR JURY TRIAL

COMPLAINT

NOW COMES Plaintiff, Ariana Swartz [**PLAINTIFF**], by and through her undersigned counsel, NORMAN YATOOMA & ASSOCIATES, PC, complains against DEFENDANTS THE PROCTER & GAMBLE MANUFACTURING COMPANY and PROCTER & GAMBLE DISTRIBUTING, LLC [**DEFENDANTS**] hereby states upon this Honorable Court as follows:

1. The Plaintiff, Ariana Swartz, is an adult individual residing in the City of Detroit, County of Wayne, State of Michigan.

2. The Defendant, The Procter & Gamble Manufacturing Company, is a business corporation believed to be organized under the laws of the State of Ohio with offices at 3875 Reservoir Road, Lima, Allen County, Ohio 45801-3310.

3. The Defendant, Procter & Gamble Distributing LLC, is a business corporation believed to be organized under the laws of the State of Delaware with offices at 1 Procter And Gamble Plaza, Cincinnati, Hamilton County, Ohio 45202.

JURISDICTION

4. This Honorable Court has jurisdiction over this matter under Diversity of Citizenship, U.S.C Section 1332, in that Plaintiff is a citizen of Michigan, and Defendants are corporations organized under the laws of the states of Ohio and Delaware, with Defendants' headquarters located at 1 Procter And Gamble Plaza, Cincinnati, Hamilton County, Ohio 45202, and the matter in controversy, exclusive of interests and costs, is greater than \$75,000.00.

FACTUAL ALLEGATIONS

5. On or about August, 2014, Plaintiff's mother purchased a container of Tide Pods designed, manufactured, and distributed by Defendants, The Procter & Gamble Manufacturing Company and Procter & Gamble Distributing, LLC.

6. On or about October 14, 2014, Plaintiff, while at her home, proceeded to wash her laundry while wearing a shirt and a bra.

7. While Plaintiff was putting the Tide Pod in her washing machine, the pod exploded, rapidly spraying its contents onto Plaintiff.

8. The contents sprayed onto Plaintiff's shirt.

9. Plaintiff immediately changed her shirt.

10. Plaintiff later realized that the contents had come in contact with her bra and soaked through her bra, causing the liquid to come in direct contact with Plaintiff's neck, arm, and chest.

11. As a result of the contact with the liquid, Plaintiff experienced severe skin irritation, burning, peeling, chemical burns, and nerve damage.

12. Defendant owed a duty to Plaintiff to exercise reasonable care in the design, manufacture, and sale of the pods.

13. Defendants' actions were willful, wanton, deliberate, intentional and outrageous, entitling Plaintiff to punitive damages, which are hereby claimed.

**COUNT I
NEGLIGENCE**

14. Plaintiff incorporates by reference paragraphs 1 through 11.

15. At all relevant times, Defendants owed a duty to Plaintiff and to the public in general to:

- a. properly and adequately design the Tide Pods,
- b. properly and adequately test the Tide Pods,
- c. properly and adequately manufacture and fabricate the Tide Pods,

d. warn of any potential dangers associated with the foreseeable use of Tide Pods, and

e. ensure the Tide Pods were safe for reasonably foreseeable uses at the time they left control of the Defendants.

16. Defendants breached these duties by committing or omitting the following acts:

a. failing to properly and adequately design the Tide Pods,

b. failing to properly and adequately test the Tide Pods,

c. failing to properly and adequately manufacture and fabricate the Tide Pods,

d. failing to warn of any potential dangers associated with the foreseeable use of Tide Pods,

e. failing to ensure the Tide Pods were safe for reasonably foreseeable uses at the time they left control of the Defendants.

17. The product was not reasonably safe at the time it left the control of Defendant manufacturer.

18. At the time the product left the control of Defendant manufacturer, a technically feasible alternative production practice was available that would have prevented the harm to Plaintiff without significantly impairing the usefulness or desirability of the product to users and without creating equal or greater risk of harm to others.

19. These breaches of duty proximately caused the Plaintiff damages such as: severe and permanent physical pain and scarring, loss of enjoyment of life, nerve damage, anxiety, embarrassment, humiliation, and medical expenses.

20. As a direct and proximate result of the negligence of Defendants, Plaintiff will suffer in the future the following damages including loss of enjoyment of life, pain, nerve damage, scarring, anxiety, embarrassment, humiliation, and future medical expenses.

21. Defendants' actions were willful, wanton, deliberate, intentional and outrageous entitling Plaintiff to punitive damages, which are hereby claimed.

COUNT II
BREACH OF EXPRESS OR IMPLIED WARRANTY

22. Plaintiff's incorporate by reference paragraphs 1 through 21.

23. At all relevant times, Defendant represented that the Tide Pods were safe for use, fit for purposes intended, and of merchantable quality.

24. At all relevant times, Defendant warranted by implication that the Tide Pod was reasonably safe for use, fit for purposes intended, and of merchantable quality.

25. Those representations and warranties were false.

26. As a direct and proximate result of these false representations and warranties, Plaintiff has suffered damages such as: severe and permanent physical pain and scarring, loss of enjoyment of life, nerve damage, anxiety, embarrassment, humiliation, and medical expenses.

27. As a direct and proximate result of these false representations and warranties, Plaintiff will suffer in the future the following damages including; loss of enjoyment of life, pain, nerve damage, scarring, anxiety, embarrassment, humiliation, and future medical expenses.

28. Defendants' actions were willful, wanton, deliberate, intentional and outrageous entitling Plaintiff to punitive damages, which are hereby claimed.

WHEREFORE, Plaintiff, ARIANA SWARTZ respectfully requests this Honorable Court to enter a judgment in her favor against Defendants and award an amount in excess of Seventy-Five Thousand (\$75,000) Dollars, exclusive of costs, interest, and attorney fees, as well as an award of punitive damages.

Dated: June 24, 2016

Respectfully submitted,

/s/ Lisa M. Gray
NORMAN YATOOMA & ASSOCIATES, PC
BY: Lisa M. Gray (P74841)
Attorney for Plaintiff
1615 South Telegraph Road-Suite 1615
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BY: Norman A. Yatooma (P54746)

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JURY DEMAND

Plaintiff, Ariana Swartz, by and through her attorneys, Norman Yatooma & Associates, P.C., hereby demands Trial by Jury in this matter.

Dated: June 24, 2016

Respectfully submitted,

/s/ Lisa M. Gray

NORMAN YATOOMA & ASSOCIATES, PC

BY: Lisa M. Gray (P74841)

Attorney for Plaintiff
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