

3. Defendant Simply Mommy, LLC, is a limited liability corporation that is incorporated under the laws of the state of Minnesota. Defendant Simply Mommy, LLC. had its principal place of business in the state of Minnesota. Defendant does not have a registered agent for service of process in the state of Texas. Defendant Simply Mommy, LLC. may be served according to the laws of the state of Delaware by serving Defendant Peak 21 Holdings, Inc.'s registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808 or wherever it may be found.

4. Defendant Target Corporation is a foreign for-profit corporation doing business in the state of Texas and incorporated under the laws of the state of Minnesota. Target Corporation's headquarters is in Minneapolis, Minnesota. The defendant may be served with process through its registered agent, C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201 or wherever it may be found.

JURISDICTION

5. The court has jurisdiction over this case pursuant under 28 U.S.C. §1332 (a)(1) because Plaintiffs and Defendants are citizens of different U.S. states, and the amount in controversy exceeds \$75,000 as is required pursuant to the statute.

VENUE

6. Venue is proper in the Southern District of Texas, Houston Division pursuant to 28 U.S.C. §1391 (b)(2) because a substantial part of the acts, events or omissions giving rise to the claim occurred in the Southern District of Texas.

FACTUAL BACKGROUND

7. On or about June 5, 2023, the incident product was purchased from Defendant Target.

8. At or about the time of purchase, Defendant Peak 21 Holdings was the owner of Defendant Simply Mommy, LLC.

9. Revel was born on April 26, 2023, and was 7 months old at the time of her death.

10. On or about November 6, 2023, Plaintiffs placed Revel in the Snuggle Me baby lounger.

11. Revel fell asleep in the lounger as it was intended by the Defendants.

12. At some point, Plaintiff returned to discover that Revel had managed to roll out of the lounger and was found wedged in between the pillows and headboard resulting in her losing consciousness.

13. Revel was rushed to the hospital where she later was pronounced dead on November 7, 2023.

CAUSES OF ACTION

14. Plaintiffs bring these claims and request for damages pursuant to Chapter 71 of the T.C.P.R. Code, Texas Wrongful Death and Survival Statute, Chapter 82 of the C.P.R.C., Texas UCC § 2-313-315, Chapter 41 of the C.P.R.C., and Texas Common Law.

15. All conditions precedent have been performed or have occurred.

NEGLIGENCE OF DEFENDANTS

16. Plaintiffs would show that the conduct of Defendants, was negligent in one or more of the following acts and/or omissions:

a. Failing to design an infant lounger that would be safe for its intended use;

- b. Failing to warn the general public of the hidden dangers of the infant lounger;
- c. Failing to test the product to ensure that they are suitable for its intended purpose; and
- d. Placing the infant lounger into the stream of commerce when it was not safe for its intended purpose.

17. Each of these acts and/or omissions, singularly and/or in combination, proximately caused the injuries to Plaintiffs.

STRICT PRODUCTS LIABILITY (§402-A)

18. Plaintiffs incorporate each of the allegations in the preceding paragraphs as set forth in full herein.

19. As a second cause of action, Plaintiffs will show that the occurrence giving rise to this lawsuit was caused by Defendants placing into the stream of commerce an unreasonably dangerous and defective product.

20. Defendants designed, manufactured, assembled, tested (or failed to test), inspected (or failed to inspect), packaged, labeled, fabricated, constructed, analyzed, distributed, serviced, merchandised, advertised, promoted, marketed, and sold the product.

21. The product was unsafe because of the defects in the design, manufacture, testing, labeling, packaging, and marketing.

STRICT PRODUCTS LIABILITY (§402-B)

22. Plaintiffs incorporate each of the allegations in the preceding paragraphs as if set forth in full herein.

23. As a third cause of action, Plaintiffs will show that Defendants misrepresented that the baby lounger was safe for its intended use.

24. The baby lounger instructions lacked the necessary information for Plaintiffs to understand the safe intended use of the product.

25. The failure to alert Plaintiffs that the baby lounger was not intended for extended sleeping involved a material fact concerning the character or quality of the product in question.

26. Plaintiffs relied upon the representations by the Defendants in purchasing the product in question.

BREACH OF EXPRESS WARRANTY

27. The Plaintiffs incorporate each of the allegations in the preceding paragraphs as if set forth in full herein.

28. As a fourth cause of action, Plaintiffs will show that the injuries and damages were caused by the breach of expressed warranties made by the Defendants who placed products into the stream of commerce in violation of their own expressed warranties.

29. Defendants in placing the products into the stream of commerce utilized advertising media and professional publications to urge the purchase and use of the products and expressly warranted to members of the general public, including Plaintiffs that the products were effective and proper.

30. Plaintiffs relied upon the representations made by the Defendants in the purchase of the product.

BREACH OF IMPLIED WARRANTY

31. Plaintiffs incorporate each of the allegations in the preceding paragraphs as set forth in full herein.

32. As a fifth cause of action, Plaintiffs will show that the injury suffered by Plaintiffs was caused by the breach of implied warranty of merchantability by the Defendants.

33. Defendants implied to members of the general public, including Plaintiffs, that the product was of merchantable quality and safe for the use for which it was intended.

34. The characteristics referenced above resulted in conditions that rendered the products unfit for the ordinary purpose (Tex. UCC § 2.314 – 2.315) for which they were to be used because of the lack of something necessary for adequacy.

35. Plaintiffs will show that the injury suffered by Revel Hopper was caused by the breach of implied warranty of merchantability by the Defendant.

36. Defendants implied to members of the public, including Plaintiffs, that the product was of merchantable quality and safe for the use for which it was intended.

37. The characteristics referenced above resulted in a condition that rendered the baby lounger unfit for the ordinary purpose for which it was to be used because of the lack of something necessary for adequacy.

GROSS NEGLIGENCE OF DEFENDANTS

38. The negligence of the Defendants was of such a character to make the Defendants guilty of gross negligence and the Defendants should accordingly be held liable.

39. The conduct of the Defendants was in heedless and reckless disregard of the rights of the Plaintiffs and involved such an entire want of care as to indicate that it was a result of conscious indifference to the rights, welfare, and safety of Plaintiffs.

DAMAGES

40. The negligence of the Defendants proximately caused the injuries and damages made the basis of this suit.

41. As a proximate result of the injury, Revel endured physical pain and suffering and mental anguish.

42. As a proximate result of the injury, Revel's estate incurred medical expenses.

43. As a proximate result of the injury, Revel's estate incurred a loss of future earning capacity.

44. As a proximate result of the injury, Revel's estate incurred funeral and burial expenses.

45. As a proximate result of the injury, Plaintiffs, have experienced the loss of the parent/child relationship and mental anguish in addition to all recoverable damages pursuant to The Texas Wrongful Death Act, Tex. Civ. Prac. & Rem. Code §§71.001-71.011.

JURY DEMAND

46. Plaintiffs request a jury trial.

PRAYER

47. Plaintiffs pray that Defendants be served with citation and called upon to answer herein and that, upon trial hereof, they have judgment for all their damages together with prejudgment interest on past damages, interest on the judgment, costs of suit, and such other relief to which they may be entitled.

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Respectfully submitted,

THE WEYCER LAW FIRM, P.C.

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