

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

NATALIE BELKIN, individually and as natural guardian and next friend of M.B., a minor; YOSEF BELKIN, on behalf of himself and all others similarly situated,

Plaintiffs,

v.

PRINCE LIONHEART, INC., a California Corporation; TARGET CORPORATION, a Minnesota Corporation,

Defendants.

Case No.: 18-80700-WPD

**PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR INDIVIDUAL
CLAIMS AND CLASS CLAIMS FOR
DAMAGES & INJUNCTIVE RELIEF**

PLAINTIFFS' FIRST AMENDED COMPLAINT

COMES NOW, NATALIE BELKIN, individually and as a natural guardian and next friend for M.B., her minor son, and YOSEF BELKIN, individually and on behalf of other persons similarly situated (hereinafter, collectively "Plaintiffs"), to allege causes of action against defendants PRINCE LIONHEART, INC. and TARGET CORPORATION (hereinafter, collectively "Defendants") as follows:

INTRODUCTION

1. This matter, like many other individual cases throughout the United States against defendant PRINCE LIONHEART, INC. (hereinafter, "Prince Lionheart" or "Defendant"),

involves a toddler whose genitals were lacerated while using a defective potty-training product. Despite having knowledge of at least 15 similar incidents, Prince Lionheart refuses to recall or warn its customers about the approximately 650,000 defective products in circulation that are being handed down from family to family in households throughout the United States. To date, the company's refusal continues even though Prince Lionheart has redesigned the defect and substantially changed the warnings on its new products.

2. M.B. is a minor and is being identified by a fictitious name to protect his true identity from public scrutiny given the private nature of the allegations.

3. On May 9, 2018, M.B. was using, in a foreseeable manner, a potty-training product called the weePOD Basix (hereinafter, "weePOD") when M.B.'s genitals became stuck to the weePOD, causing penile lacerations, near genital dismemberment, and permanent damage to his penis. The weePOD, manufactured and advertised by Prince Lionheart, had been purchased by his father, YOSEF BELKIN (hereinafter, "Mr. Belkin" or "Plaintiff"), at a store in Boca Raton located in Palm Beach County, Florida controlled by TARGET CORPORATION (hereinafter, "Target" or "Defendant").

4. This action is brought against the Defendants to recover all damages to which Plaintiffs are entitled as a result of the severe injuries and damages Plaintiffs sustained as set forth herein.

PARTIES

5. Plaintiff M.B. is and, at all times mentioned herein, was a minor.

6. Plaintiff Mr. Belkin is, and at all times mentioned, was an adult and natural father of M.B., a minor born on March 27, 2015. As such, Mr. Belkin is qualified to bring this action as the natural guardian and next friend of M.B. pursuant to Florida Statute § 744.301.

7. Plaintiff NATALIE BELKIN (hereinafter, “Mrs. Belkin” or “Plaintiff”) is M.B.’s mother and was assisting her son at the time of the subject accident.

8. Defendant Prince Lionheart is a California Corporation with its principal place of business at 2421 S. Westgate Road, Santa Maria, California 93455. Its agent for service of process is Kelly McConnell (hereinafter, “Ms. McConnell”), located at 2421 S. Westgate Road, Santa Maria, California 93455. At all relevant times herein, Prince Lionheart sold products, including the weePOD, to members of the general public, as well as designing, testing, manufacturing, inspecting, distributing, and recalling them, in exchange for valuable consideration in Palm Beach County.

9. Defendant Target is a Minnesota Corporation with its principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403. Its agent for service of process in Florida is CT Corporation System located at 1200 S. Pine Island Road, Plantation, Florida 33324. Target at all relevant times herein sold products, including the weePOD, to members of the general public, as well as designing, testing, manufacturing, inspecting, distributing, and recalling them, in exchange for valuable consideration in Palm Beach County.

10. Plaintiffs are informed and believe, and thereon allege, that at all relevant times each and every Defendant was acting as an agent and/or employee of each of the other Defendants and was the owner, agent, servant, joint venturer and/or employee, each of the other, and each was acting within the course and scope of its ownership, agency, service, joint venture, and/or employment with the full knowledge and consent of each of the other Defendants. Plaintiffs are informed and believe, and thereon allege, that each of the acts and/or omissions complained of herein was made known to, and ratified by, each of the other Defendants.

11. At all times mentioned herein, each and every Defendant was the successor of the other and each assumes the responsibility for each other's acts and omissions.

JURISDICTION & VENUE

12. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy in this civil action exceeds the sum or value of \$75,000.00, exclusive of interests and costs, and at is between citizens of different states.

13. Further, this Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2) because the matter in controversy in this civil class action exceeds the sum or value of \$5,000,000.00, exclusive of interests and costs, and at least one member of the putative class is a citizen of a state different from Defendants. Furthermore, Plaintiff Class consists of at least one hundred members.

14. This Court has personal jurisdiction over the Defendants because they regularly conduct business and distribute their products in Palm Beach County, Florida.

15. Furthermore, Target maintains a registered agent in Broward County, Florida for the purpose of transacting business in Florida. Therefore, this Court has personal jurisdiction over Target pursuant to Florida Statutes Sections 48.081; 48.091, 48.193.¹

16. Venue is proper in this District because the conduct which is the subject of this lawsuit emanated from Target's retail store located in Palm Beach County, Florida.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

17. Prince Lionheart designs, distributes, and sells products for toddlers. The products are manufactured in China with cheap materials. One of its main products is the weePOD. Defendants' marketing suggests the product is harmless:

¹See *White v. Pepsico*, 568 So.2d 886, 889 (Fla. 1990).



18. Furthermore, Prince Lionheart openly advertises that they invent, design and manufacture right here in the United States of America.

HOW FAR WE'VE COME

We invent, design and manufacture right here in the US. But we won't make just anything—we have to be able to make a product that matters, is safer, or is just plain better. Our passion and love of what we do is in the details. We don't do things simply for the bottom line; we do things because they're the right things to do.

We've committed our lives to creating products that make a difference to families all over the world: where the quality of the item outweighs the price you pay. We're parents too. We know the challenges and we try to solve them as best we can.

We've come a long way from Grandma and Grandpa's garage—expanding, but staying true to our beginnings. We have the honor of a brand, but the values of a family—our sense as business people and our sense as parents. Each new garage is a new place, but we're the same family. The McConnells.

([http://www.princelionheart.com/our-story/.](http://www.princelionheart.com/our-story/))

19. The product is not harmless. The product was designed by a Chinese subcontractor and manufactured in China, not the United States.

20. Nor is this the first time a toddler was injured by a weePOD. In fact, after multiple

complaints, materially false statements to the Consumer Product Safety Commission (hereinafter, “CPSC”), and subsequent warnings and material changes, it is abundantly clear that the product is defective, the Defendants were aware of the defect, and the Defendants’ refusal to recall was an act of malice.

21. In 2012, Prince Lionheart received the first complaint of many to follow about a toddler’s genitals being ripped/lacerated at the base of his penis. On May 11, 2012, a California resident, Mrs. Diaz de Leon, contacted Prince Lionheart. She subsequently emailed a picture of her son’s graphic injury. In the email, she stated: “I apologize for the graphic content, but I have attached a photo of the cut my son received from the weePOD seat. **I want your company to know that this really happened and it’s to be taken seriously.**” Then the Head of Operations at Prince Lionheart, Richard Siegel (“Mr. Siegel”), spoke with the complainant who informed him that her “son had injured his penis when it rubbed against the lower edge of the WeePod.”

22. In the fall of 2015, Defendant received a voice mail from Ms. Evangelista from New Hampshire. She informed Defendant that she purchased a weePOD that cut her son’s penis on two separate occasions. The injuries were again at the upper base of the penis. Ms. Evangelista specifically stated in her voicemail that she wanted to “**certainly have this [product] removed from the ability to have other people buy this product.**” She further described the product as awful.

23. Ms. Evangelista subsequently spoke with Mr. Siegel. Under oath, Ms. Evangelista testified that Mr. Siegel told her “that he had had no indication this has ever happened to any other child, that this was an isolated incident.” Ms. Evangelista stated that “had he told me there was another incident or other incidents, I would have thought by then the seat would no longer with [sic] available.” Mr. Siegel’s statement to Ms. Evangelista was false.

24. After receiving Ms. Evangelista's complaint, Mr. Siegel emailed Ms. McConnell on November 19, 2015 warning that "some of the characteristics of this claim signal caution to me in how we proceed" and attached a voicemail from Ms. Evangelista.

25. On February 25, 2016, Ms. Hearld from Virginia contacted Defendants in an email via an online submission form that was received by Mr. Siegel. Ms. Hearld informed the Defendants that she purchased a weePOD for her son and that when he was using it, he had stood up and started screaming. Defendants' dangerous product resulted in a cut at the base of his penis "pretty badly."

26. Ms. Hearld's online review of Defendants' weePOD was similar:

My 4 year old son was going to the bathroom on his wee pod basix potty seat and when he stood up he started screaming. He had a nasty cut on the base of his penis and it was bleeding a lot. My husband and I cleaned him up and took him to the doctor. When we got home I examined the seat and the bottom edge is actually very sharp and just sliced open the very sensitive skin in that area. This has been horribly traumatic for him and could have been so much worse. I hope this problem is addressed. I have read multiple reports of this happening to other little boys as well. (<http://m.target.com/p/prince-lionheart-weepod-basix-potty-ring/-/A-15279879>.)

27. Ms. Hearld testified that she wanted to warn the Defendants because, "I did not want this to happen to any other families..." and "it very easily could have been worse."

28. The CPSC opened an investigation. In response, Prince Lionheart flat out lied. On June 23, 2016, Prince Lionheart informed the CPSC in response to the Hearld complaint: "the consumer may find some measure of reassurance in knowing that after many years of widespread use across global markets, we are not aware of any instance of identical injury with use of this

product.” The company made this representation despite at least two prior complaints of nearly identical injuries using the weePOD.

29. In the summer of 2016, Mrs. Teague contacted Prince Lionheart about her son’s injury from a weePOD Toilet Trainer Squish. This product had an identical guard made with the same cheap Chinese plastic and was manufactured, not in the United States, but in China.

30. The complaints continued. On or about December 16, 2016, Defendants received a complaint from a mother in Arizona. She stated:

I have the Wee Pod Basix, I purchased the potty seat for my son. The higher front piece seemed to be a good idea to reduce mess. A few days ago I had to take my son to the emergency room because his skin at the base of the penis tore, after getting caught behind the piece I thought was a good idea. He was getting off the seat and his penis didn’t clear the top snagging him, as the weight moved forward the skin tore, **the material the seat is made of didn’t allow his skin to slide off.** I am not sure if this has happened to someone else but thought you should know.

31. Defendants have received at least eight other similar injuries. And there have been others. They all involved toddlers using the weePOD in an ordinary foreseeable manner and being lacerated to varying degrees. The lacerations are all at the base of the toddlers’ penises. Some of the injuries are more severe and involved the cuts going around nearly the entire base of the penis, which has resulted in substantial scarring and permanent emotional and medical concerns.

32. In January 2017, Devon T. from Ontario explained to Prince Lionheart that she was assisting her son when he was injured after removing him from the seat. The internal Prince Lionheart emails describe Devon T.’s warnings to the company:

· Devon stated that she wanted to make sure that other children weren't hurt as a result of this product's design." She further stated that she felt "this product should be recalled." She claims to have photos of the injury, which she described as "very graphic and disturbing."

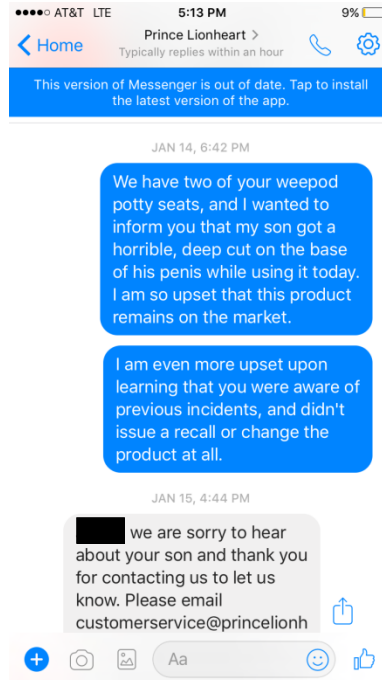
33. In July 2017, the Browne family contacted Prince Lionheart and warned that their "son received a severe laceration on his penis when getting off your Cushy Weepod." They warned Prince Lionheart that "[t]his is shocking that your product does this and needs to be fixes [sic] so this doesn't happen to another little child or worse." Mrs. Browne followed up: "it severely injured my son's penis when he got off...You really need to make this product more safe for children. This product sliced my son's penis and cause [sic] a deep laceration as he was getting off of it."

34. On August 2, 2017, Mrs. Hayward sent a complaint warning Prince Lionheart stating:

I recently purchased the Prince Lionheart 'weepod basix' potty seat for my son and he has no hurt his penis twice while getting off of the seat. What seems to be happening is that it sticks to the pee guard and pulls while he gets off. The injury is significant, causing his penis to tear away from his body at the base...

35. Prince Lionheart received a warning from Mrs. Sweat in Georgia (who purchased the product at Target) that her "son got a horrible cut along the base of his penis going halfway around it... [and complained] I'm very worried about these seats being on the market, and their potential to cause harm to more children. I'm disappointed to hear of other injuries, while it seems your company has done nothing to fix the problem."

36. Mrs. Sweat warned Prince Lionheart via Facebook Messenger as well:



37. Mrs. Harrelson also purchased the weePOD at Target. She warned Prince Lionheart that her “son was attempting to get off the toilet and stand up on his stool when his penis rubbed against and gripped to the toilet seat, tearing his skin almost 180 degrees around where the shaft of his penis is connected to his lower belly.” Mrs. Harrelson soon after researched any recalls for the product and sought to report the incident to Prince Lionheart “so this doesn’t happen to any other boys.”

38. Plaintiffs believe that Defendants are aware of other complaints about the product but ignored the obvious dangers so they could sell the cheap Chinese-made products.

39. Prince Lionheart has a history of ignoring safety defects and misleading consumers when confronted about false statements of their products, including its baby wipe warmers, Love Bug mosquito repellent, and the bebePOD infant chair.

40. Furthermore, the warnings and designs were defective. After a similar lawsuit as the instant one was filed, Prince Lionheart changed its warnings and the design for the weePOD.

The package originally only stated on white-on-white: “Never Leave Child Unattended. Use Only Under Adult Supervision.” The location was not prominent, as identified below:



41. Prince Lionheart changed the warning to state on the upper portion of the packaging “*ATTENTION: Adult supervision is required at all times, including dismount, to ensure genitals clear the pee shield to prevent possible injury. Use of step stool is highly recommended.”

42. In the summer of 2017, Prince Lionheart changed the texture of the material where the toddlers’ penises were getting stuck. The change was made in response to Prince Lionheart’s requests to its Chinese manufacturer partners. In response, the Chinese designers stated to Prince Lionheart:

Hi, Marilou

Pls see attached pics. we did the texture on the pee shield of weePOD basix and weePOD toilet trainer to prevent kids skin from sticking.

43. The engineering change, which was signed by the founder of Prince Lionheart, Tom McConnell, was made for the following reason: “[t]o make the product more safer during child’s use.”

Reason:	8) To make the product more safer during child's use.
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APPLICABLE MARKET	13) ALL
Approved for Prince Lionheart:	14) Tom McConnell signature
	16) 8/7/17

44. Since at least 2012, Prince Lionheart has been aware that the weePOD was causing lacerations to toddlers' genitals due to the faulty design and cheap materials, even when used in a normal, foreseeable, and reasonable manner. Despite that knowledge, Prince Lionheart continued to design the weePOD with specifications that caused a substantial risk to toddlers of serious life-altering injuries in foreseeable events.

45. Target has been aware of the complaints. Nevertheless, Target refuses to conduct an audit of Prince Lionheart. Target refuses to have its partners inform them of product design changes. Furthermore, Target fails to warn its customers who purchased tens of thousands of defective weePODs at their stores.

46. As a proximate result of the negligent design and/or design defects of the weePOD, for which Defendants are responsible, the event at issue occurred on May 9, 2018. On that day, M.B. was being assisted by his mother, plaintiff Mrs. Belkin, in the use of the weePOD when M.B. sustained severe and painful wide-ranging physical and emotional injuries and damages that have resulted in severe physical and/or mental pain and suffering to M.B.

47. Despite redesigning the products in August 2017 with a new textured surface to "prevent kids skin sticking" to make the product "more safer during child's use", and despite changing the warnings in March of 2018, neither Target nor Prince Lionheart warned the owners, users, and/or potential purchasers of the defective weePOD line of products with the pre-August

2017 texture. Defendants knew about the problem and knew the products were defective. Yet, Target and Prince Lionheart continued to permit their old inventory of defective weePOD products to sell and, for years, continued to earn profits by selling the defective product.

FURTHER ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

(Against All Defendants)

48. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target, inclusive, and each of them, and their officers, directors, and/or managing agents, knew of, intended for, ratified, and committed the following acts which caused Plaintiffs' damages and injuries.

49. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target, inclusive, and each of them, and their officers, directors, and/or managing agents, sold, designed, manufactured, fabricated, distributed, retailed, wholesaled, recommended, tested, modified, controlled, advertised, created, processed, prepared, constructed, packaged, provided, warranted, repaired, maintained, marketed, labeled, promoted, advertised, furnished, analyzed, inspected, supplied, and placed into the stream of commerce the subject weePOD which M.B. was using properly and caused him serious injuries and damages.

50. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target, inclusive, and each of them, and their officers, directors, and/or managing agents, knew at all relevant times that the Subject weePOD, with the inadequate materials and specifications, was defective and/or dangerous and/or knew use would result in injuries or death if not properly recalled from the public, which they were not.

51. The defective and dangerous design, manufacture, and performance of the subject weePOD, including that it was unsafe for its intended use and purpose when employed in a

reasonable and foreseeable manner, was knowable by means of scientific knowledge available to Prince Lionheart and Target, inclusive, and each of them, and their officers, directors, and/or managing agents.

52. Further, Prince Lionheart and Target, inclusive, and each of them, and their officers, directors, and/or managing agents, knew, or by means of available knowledge should have known, of the numerous other earlier deaths, injuries, consumer complaints, warranty claims, and lawsuits caused by the defective weePODs, including earlier versions and similar products, due to the inadequate and improper design, defective manufacturing, and lack of proper warnings, as specifically described herein. And yet, in conscious disregard of the rights and safety of others, including Plaintiffs, Prince Lionheart and Target, inclusive, and each of them, and their officers, directors, and/or managing agents chose not to recall and stop selling the similarly-designed defective weePODs, or to provide accurate and proper instructions and warnings, or conduct a proper, timely, and reasonable recall.

53. Plaintiffs are informed and believe, and thereon allege, that despite said knowledge on the part of Prince Lionheart and Target, and each of them, and their officers, directors and/or managing agents, said Defendants and each of them, acted in a reckless, wanton, and malicious manner with a willful, conscious disregard for the rights, safety, and well-being of the Plaintiffs and other members of the public, when they sold, marketed, and/or distributed defective weePODs without alerting, advising, warning, properly recalling, or otherwise adequately informing purchasers and/or users of the defective weePODs regarding their defective and dangerous nature and/or character. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target further failed to alert, advise, warn, properly recall, or otherwise adequately inform purchasers and/or users of the defective weePODs that safer, alternative feasible designs were

available which would substantially decrease the risk of injuries and/or mitigate its effects, substantially decreasing the risk and extent of any injury, if it occurred.

54. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target, and each of them, and their officers, directors, and/or managing agents, further failed to alert, advise, warn, properly recall, or otherwise adequately inform purchasers and/or users of the defective weePODs of their defective and dangerous nature and/or character, knowing that the defective weePODs would be used and would fail to protect toddlers in foreseeable incidents. By failing to so alert, advise, warn, or adequately maintain or inform users of the defective and dangerous nature and/or character of said products, the Defendants, and each of them, warranted and represented that the defective weePODs were safe and suitable for their intended purpose and use by M.B. and other members of the public. As a direct, proximate, and legal result thereof, M.B. was using the defective weePOD for its intended purpose and thereby suffered severe personal injuries and other damages.

55. Plaintiffs are informed and believe, and thereon allege, that despite said knowledge on the part of Prince Lionheart and Target, and each of them, and their officers, directors, and/or managing agents, Prince Lionheart and Target, acted in the manner described above and/or failed to take the actions mentioned above, for reasons of economic gain and to save money and increase their business profits. If Prince Lionheart and Target, and each of them, had taken actions to improve, maintain, and/or stop selling defective weePODs, said acts would have cost them money. Hence, Prince Lionheart and Target, and each of them, consciously, willfully, and wantonly decided that their profits were more valuable and important than the certain human suffering and loss that resulted from their actions.

56. Plaintiffs are informed and believe, and thereon allege, that despite said knowledge

on the part of Prince Lionheart and Target, and each of them, and their officers, directors, and/or managing agents, directly, and/or in authorizing and ratifying the conduct of each of them, acted with malice by engaging in the misconduct despicably and in a reckless, wanton, and malicious manner with a willful and conscious disregard of the rights and/or safety of others, and/or acted with oppression by engaging in the misconduct despicably and by subjecting others to cruel and unjust hardship in a reckless, wanton, and malicious manner with a willful and conscious disregard of the rights of other persons, and/or acted with fraud by engaging in the misconduct through intentional misrepresentation, deceit, and/or concealment of material facts known to Prince Lionheart and Target with the intention on the part of Prince Lionheart and Target of thereby depriving a person or property of legal rights or otherwise causing injury, and are liable for exemplary and punitive damages. Plaintiffs are therefore entitled to an award of exemplary and punitive damages against Prince Lionheart and Target, and each of them, in an amount to be shown according to proof at trial.

CLASS ACTION ALLEGATIONS

57. Pursuant to Rules 23(a),(b)(2)–(b)(3), and (c) of the FEDERAL RULES OF CIVIL PROCEDURE, Mr. Belkin² brings this action on his own behalf and on behalf of the proposed Classes. The Prince Lionheart Class consists of:

All persons within the United States who purchased Prince Lionheart weePOD models with the Pee Guard that were manufactured prior to the August 2017 engineering change to the texture of the Pee Guard, from the four (4) years prior to the filing of this Complaint up to the date the Class is certified.

Target SubClass consisting of:

All persons within the United States who purchased Prince

² Mr. Belkin's individual claim in the litigation is for the economic claim for purchasing a defective product. Unlike his wife and son, he is not making a claim for pain and suffering.

Lionheart weePOD models with the Pee Guard that were manufactured prior to the August 2017 engineering change to the texture of the Pee Guard from Target, from the four (4) years prior to the filing of this Complaint up to the date the Class is certified.

The Target SubClass seeks injunctive relief only to stop Target from selling any more of the defective weePods manufactured prior to the texture redesign.

58. The following individuals are excluded from the Classes: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendants, Defendants' subsidiaries, parents, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest, and its current or former employees, officers, and directors; (3) Plaintiffs' attorneys; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) the legal representatives, successors, or assigns of any such excluded persons; and (6) persons whose claims against Defendants have been fully and finally adjudicated and/or released.

FIRST CAUSE OF ACTION

NEGLIGENCE

(By Plaintiff M.B. against All Defendants)³

59. Plaintiffs repeat and re-allege paragraphs 1–58.

60. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Prince Lionheart and Target, inclusive, and each of them, had a duty to provide a reasonable potty-training seat, that would protect users including M.B. from genital lacerations when used in a foreseeable manner and not cause injury in a foreseeable accident, as well as to provide information, instructions, and warnings regarding those actual dangers.

61. All Defendants, inclusive, and each of them, also owed the duty to warn of dangers, to properly perform repairs to and maintain and/or operate the potty-training seat in a proper and safe manner, to inspect the potty-training seat for safety, and to actually, not just by a façade of constructive warning, warn the Plaintiffs of dangers known to the Defendants.

62. Plaintiffs allege that Defendants breached this duty of care by designing and distributing the weePOD with inadequate materials and specifications, which were defective and/or dangerous and/or which Defendants knew would result in injuries or death due to the product's propensity to cause severe injuries to the genitalia of its foreseeable consumers, i.e., small children.

63. On or about May 9, 2018, the negligence of Defendants, and each of them was the proximate, legal cause of the damages sustained by Plaintiff. Plaintiff has incurred damages to be shown by proof at trial.

³ The headers of the Causes of Action delineate which plaintiff(s) are making the claims against which defendant(s). Sometimes in the language of the causes of action, the plural and singular are used. However, the identifications in the headers trump any confusion.

64. As a direct and proximate result of the foregoing negligent acts the Plaintiff was injured on or about May 9, 2018, when M.B. was being assisted using the product by Mrs. Belkin and M.B. sustained severe and painful physical and emotional injuries and damages, as well as a myriad of other debilitating personal injuries, which resulted in severe physical and/or mental pain and suffering to M.B.

SECOND CAUSE OF ACTION

STRICT PRODUCT LIABILITY

(By Plaintiff M.B. against All Defendants)

65. Plaintiffs repeat and re-allege paragraphs 1–58.

66. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Prince Lionheart and Target inclusive, and each of them, manufactured, fabricated, planned, designed, assembled, distributed, leased, bought, sold, rented, recalled, inspected, repaired, imported, marketed, warranted, tested, serviced, and advertised the subject weePOD and/or its parts, with instructions and warnings, in said product and/or its parts, as well as other models in that series, all of which contained product defects, both in manufacturing, design, and failure to warn in various components, including in the protection from lacerations.

67. Said product defects rendered the weePOD defective under Florida Law.

68. Plaintiffs were not aware of any said defects at any time prior to May 9, 2018, and said defects would not be detectable or appreciated by normal inspection prior to use.

69. On or about May 9, 2018, said product defects were the direct and proximate legal causes of the damages sustained by Plaintiffs. Plaintiffs have incurred damages to be shown by proof at trial.

THIRD CAUSE OF ACTION

NEGLIGENT FAILURE TO WARN

(By Plaintiff M.B. against All Defendants)

70. Plaintiffs repeat and re-allege paragraphs 1–58.

71. Plaintiffs are informed and believe, and thereon allege, that defendants Prince Lionheart and Target, inclusive, and each of them, had a duty to provide information, instructions, and warnings, and each of them negligently and carelessly advertised, designed, manufactured, fabricated, planned, assembled, distributed, leased, rented, bought, sold, inspected, tested, serviced, repaired, marketed, recalled, warranted, provided instructions, and warnings as to defective weePODs, as well as to other similar models, regarding the propensity of the products to lacerate toddlers' genitals while being used in a normal, foreseeable manner.

72. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target, inclusive, and each of them, had a duty to warn Plaintiffs that there existed a condition that Prince Lionheart and Target, inclusive, and each of them, were well aware of, but failed to act thoroughly and actually inform the consuming public, who use their manufactured products, of the possible dangers from the propensity of the products to unexpectedly lacerate toddlers' genitals and other related dangers, while being operated in a normal, foreseeable manner that Defendants were aware of and that were alleged to affect the weePODs. The Defendants' actions, including waiting for years without warning or even recalling the affected weePODs, constitute negligence.

73. By May 9, 2018, the failure of Prince Lionheart and Target to warn, followed by the failure of Prince Lionheart and Target to subsequently recall the subject weePOD, was the proximate and legal cause of the damages sustained by Plaintiffs. Plaintiffs have incurred damages to be shown by proof at trial.

FOURTH CAUSE OF ACTION

FAILURE TO WARN – STRICT LIABILITY

(By Plaintiff M.B. against All Defendants)

74. Plaintiffs repeat and re-allege paragraphs 1–58.

75. Plaintiffs are informed and believe, and thereon allege, that Prince Lionheart and Target, inclusive, and each of them, had a duty to provide information, instructions, and warnings, and each of them negligently and carelessly advertised, designed, manufactured, fabricated, planned, assembled, distributed, leased, rented, bought, sold, inspected, tested, serviced, repaired, marketed, recalled, warranted, provided instructions, and warnings as to defective weePODs, as well as other similar models, regarding the propensity of the products to lacerate toddlers' genitals while being used in a normal, foreseeable manner.

76. The weePOD was defective. The foreseeable risks of harm from the weePOD could have been reduced, or avoided, by providing reasonable instructions or warnings about the aforementioned risks.

77. By May 9, 2018, the failure of Prince Lionheart and Target, inclusive, and each of them, to warn and then to recall the subject weePOD was the proximate and legal cause of the damages sustained by Plaintiffs. Plaintiffs have incurred damages to be shown by proof at trial.

FIFTH CAUSE OF ACTION

NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

(On Behalf of Plaintiff Natalie Belkin

Against All Defendants)

78. Plaintiffs repeat and re-allege paragraphs 1–58.

79. At all times material hereto, Mrs. Belkin was M.B.’s mother and therefore was in the position of having a close personal relationship to the injured person.

80. At all times material, Mrs. Belkin was present and witnessed the devastating and traumatic injuries suffered by her son, M.B., and was present and perceived the injuries he was suffering when the subject incident occurred.

81. As a direct and proximate result of witnessing the severe and traumatic injuries to her child, with whom Mrs. Belkin clearly has a close and personal relationship, Mrs. Belkin suffered injuries including psychic trauma with consequent physical manifestations.

82. Defendants’ acts and omissions were a substantial factor causing Mrs. Belkin’s serious emotional distress.

SIXTH CAUSE OF ACTION

FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

(“FDUTPA”)

(On Behalf of Plaintiff Yosef Belkin and the Prince Lionheart Class Against Defendant

Prince Lionheart, Inc.)

83. Plaintiffs repeat and re-allege paragraphs 1–58.

84. Mr. Belkin is a “consumer” within the meaning of FDUTPA. (Fla. Sta. § 501.203(7).)

85. Prince Lionheart is engaged in “trade or commerce” within the meaning of FDUTPA. (Fla. Stat. § 501.203(8).)

86. FDUTPA prohibits “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” (Fla. Stat. § 501.204(1).) Defendants participated in unfair and deceptive trade practices that violated the FDUTPA as described herein.

87. In the course of their businesses, Defendants failed to disclose and actively concealed the dangers and risks posed by the weePODS as described herein and otherwise engaged in activities with a tendency or capacity to deceive.

88. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts, and/or practices, fraud, misrepresentations, and/or concealment, suppression, and/or omission of material fact(s) with intent that others rely upon such concealment, suppression, or omission, in connection with the sale of weePODs.

89. Prince Lionheart has known since 2012 that toddlers’ genitals were getting stuck on weePODs, causing significant lacerations. In response to an investigation by the CPSC in 2016,

Prince Lionheart made a material misrepresentation that they had no other similar incidents. In the following years, after more complaints came to light, Prince Lionheart changed the texture of the cheap polyurethane product “to prevent kids skin from sticking” in order “[t]o make the product more safer during child’s use.” They even changed the warnings in March 2018 to warn about possible injuries if genitals did not clear the shield.

90. Target, with knowledge of complaints, refused to audit its supplier and did nothing when the products in its stores had material changes to a defect. Target failed to warn its customers about the previously purchased defective products.

91. In doing so, Defendants actively concealed the defects in the weePODs and marketed them as safe, reliable, and of high quality by presenting themselves as reputable manufacturers and distributors. Defendants engaged in unfair or deceptive business practices in violation of the FDUTPA. To ensure people would continue to purchase the defective potty-training products, Defendants deliberately withheld the information about the propensity of the weePODs to lacerate and maim toddler’s genitals while being used in a foreseeable manner.

92. The Defendants’ concealment of the defects in the weePODs had a tendency or capacity to mislead, tended to create a false impression on consumers, and did in fact deceive Mr. Belkin, a reasonable consumer, about the true safety and reliability of the weePODs, as well as members of the Prince Lionheart Class.

93. Defendants intentionally and knowingly misrepresented material facts regarding the weePODs to Mr. Belkin and members of the Prince Lionheart Class.

94. Defendants knew or should have known that their conduct violated the FDUTPA.

95. To protect their profits and to avoid remediation/recall costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the weePODs and their tragic

consequences and allowed unsuspecting consumers, such as Mr. Belkin, to purchase the defective weePODs knowing his infant son would be put in danger.

96. Defendants owed Plaintiffs a duty to disclose the true safety and reliability of the weePODs because Defendants:

- a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;
- b. Intentionally concealed the foregoing from Mr. Belkin and the consuming public; and/or
- c. Made incomplete and/or inaccurate representations about the safety and reliability of the foregoing, generally while purposefully withholding material facts from Plaintiff that contradicted these representations.

97. Because Defendants fraudulently concealed the defect of the weePODs, Plaintiffs paid a substantially greater price for the weePODs than their actual worth.

98. Defendants' failure to disclose and active concealment of the dangers and risks posed by the weePODs were material to Plaintiffs.

99. Mr. Belkin suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had Mr. Belkin been aware of the defect that existed in the weePOD and Defendants' complete disregard for safety, Mr. Belkin would have never purchased the product. Plaintiffs did not receive the benefit of the bargain as a result of Defendants' misconduct.

100. Plaintiffs risked irreparable injury as a result of Defendants' act and omissions in violation of the FDUTPA, and these violations present a continuing risk to Plaintiffs, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

101. As a direct and proximate result of Prince Lionheart's violations of the FDUTPA, Mr. Belkin has suffered injury-in-fact and/or actual damage.

102. Mr. Belkin is entitled to recover his actual damages under Fla. Stat. § 501.211(2) and attorneys' fees under Fla. Stat. § 501.2105(1).

103. Plaintiff also seeks an order enjoining Prince Lionheart's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the FDUTPA.

SEVENTH CAUSE OF ACTION

FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

("FDUTPA")

(On Behalf of Plaintiff Yosef Belkin and the Target SubClass

Against Defendant Target Corporation)

104. Plaintiffs repeat and re-allege paragraphs 1–58.

105. Mr. Belkin is a "consumer" within the meaning of FDUTPA , Fla. Sta. § 501.203(7).

106. Target is engaged in "trade or commerce" within the meaning of FDUTPA, Fla. Stat. § 501.203(8).

107. FDUTPA prohibits "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce. (Fla. Stat. § 501.204(1).) Defendants participated in unfair and deceptive trade practices that violated the FDUTPA as described herein.

108. In the course of their businesses, Defendants failed to disclose and actively concealed the dangers and risks posed by the weePODs as described herein and otherwise engaged

in activities with a tendency or capacity to deceive.

109. Defendants also engaged in unlawful trade practices by employing deception, deceptive acts and/or practices, fraud, misrepresentations, and/or concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression, and/or omission, in connection with the sale of weePODs.

110. Prince Lionheart has known since 2012 that toddlers' genitals were getting stuck on weePODs and causing significant lacerations. In response to an investigation by the CPSC in 2016, Prince Lionheart made a material misrepresentation that they had no other similar incidents. In the following years, after more complaints came to light, Prince Lionheart changed the texture of the cheap polyurethane product "to prevent kids skin from sticking" in order "[t]o make the product more safer during child's use." They even changed the warnings in March 2018 to warn about possible injuries if genitals did not clear the pee shield.

111. Target, with knowledge of complaints, refused to audit its supplier and did nothing when the products in its stores had material changes related to its defect. Target didn't warn its customers about the previously purchased defective products.

112. In doing so, Defendants actively concealed the defects in the weePODs and marketed them as safe, reliable, and of high quality, by presenting themselves as reputable manufacturers and distributors. Defendants engaged in unfair or deceptive business practices in violation of the FDUTPA. To ensure people would continue to purchase the defective potty-training products, Defendants deliberately withheld the information about the propensity of the weePODS to lacerate and maim toddlers' genitals while being used in a foreseeable manner.

113. The Defendants' concealment of the defects in the weePODs had a tendency or capacity to mislead, tended to create a false impression on consumers, and did in fact deceive Mr.

Belkin, a reasonable consumer, about the true safety and reliability of the weePODs.

114. Defendants intentionally and knowingly misrepresented material facts regarding the weePODs to Mr. Belkin.

115. Defendants knew or should have known that their conduct violated the FDUTPA.

116. To protect their profits and to avoid remediation/recall costs and a public relations nightmare, Defendants concealed the dangers and risks posed by the weePODS and their tragic consequences, thereby allowing unsuspecting consumers such as Mr. Belkin, to purchase the defective weePODs knowing his infant son would be put in danger.

117. Defendants owed Plaintiffs a duty to disclose the true safety and reliability of the weePODs because Defendants:

- a. Possessed exclusive knowledge of the dangers and risks posed by the foregoing;
- b. Intentionally concealed the foregoing from Mr. Belkin and the consuming public; and/or
- c. Made incomplete and/or inaccurate representations about the safety and reliability of the foregoing, generally while purposefully withholding material facts from Mr. Belkin that contradicted these representations.

118. Because Defendants fraudulently concealed the defect of the weePODs, Plaintiffs paid a substantially greater price for the weePODs than their actual worth.

119. Defendants' failure to disclose and active concealment of the dangers and risks posed by the weePODs were material to Plaintiffs.

120. Mr. Belkin suffered ascertainable loss caused by Defendants' misrepresentations and their failure to disclose material information. Had Mr. Belkin been aware of the defect that

existed in the weePODs, and Defendants' complete disregard for safety, Mr. Belkin would have never purchased the product. Plaintiffs did not receive the benefit of the bargain as a result of Defendants' misconduct.

121. Mr. Belkin risked irreparable injury as a result of Defendants' act and omissions in violation of the FDUTPA, and these violations present a continuing risk to Plaintiffs, as well as to the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

122. As a direct and proximate result of Defendants' violations of the FDUTPA, Mr. Belkin has suffered injury-in-fact and/or actual damage.

123. Mr. Belkin is entitled to recover his attorneys' fees under Fla. Stat. § 501.2105(1).

124. Mr. Belkin also seeks an order enjoining Target's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the FDUTPA. Plaintiff is not seeking economic damages against Target for the Target SubClass.

JURY DEMAND

125. Plaintiffs demand a jury trial on all triable issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

Individual Claims by M.B. and Ms. Belkin

1. Damages for past and future loss of earnings and benefits, and other damages in a sum to be determined at the time of trial;
2. For compensatory damages according to proof at trial;
3. An award of reasonable attorneys' fees and costs of suit as permitted by law;

4. Punitive and exemplary damages in an amount appropriate to punish and/or set an example of Prince Lionheart and Target;
5. For pre-judgment interest and other interest as provided by law;
6. For costs of suit incurred herein;
7. Injunctive relief; and
8. For such other and proper relief as the Court deems just and proper.

Class Claims by Mr. Belkin

1. An order certifying the Prince Lionheart Class as defined above, appointing Mr. Belkin as the representative of the Class, and appoint his counsel, Raymond R. Dieppa, John P. Kristensen, and John C. Carpenter as lead Class Counsel;
2. An order certifying the Target SubClass as defined above, appointing Mr. Belkin as the representative of the Class, and appoint his counsel, Raymond R. Dieppa, John P. Kristensen, and John C. Carpenter as lead Class Counsel;
3. An award of actual damages against Prince Lionheart for each violation to each member of the Prince Lionheart Class who purchased a weePODs pursuant to FDUTPA;
4. An injunction preventing Prince Lionheart from selling, marketing or distributing any of the pre re-design weePODs;
5. Awarding restitution and disgorgement of Prince Lionheart's revenues to Mr. Belkin and the Prince Lionheart Class;
6. An injunction requiring Target from selling, marketing, or distributing any of the pre re-design weePODs;

7. An award of reasonable attorneys' fees and costs of suit as permitted by law;
and
8. Awarding such other relief as the Court may deem just and proper.

Respectfully Submitted,

/s/ Raymond R. Dieppa
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(*Pro Hac Vice* Application to follow)

**ATTORNEYS FOR PLAINTIFFS &
THE PROPOSED CLASSES**