

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

Y'TESIA TAYLOR,

Plaintiff,

v.

**CONAGRA FOODS, INC. and
CONAGRA BRANDS, INC.**

Defendants.

CASE NO. [NUMBER HERE]

Judge [NAME HERE]

COMPLAINT AT LAW AND JURY DEMAND

NOW COMES the Plaintiff, Y'TESIA TAYLOR, by and through her attorney, J. CRAIG SMITH of KOSKOFF KOSKOFF & BIEDER, P.C. and PETER J. FLOWERS of MEYERS & FLOWERS, LLC, complaining against Defendants CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. and alleges:

INTRODUCTION

1. This products liability lawsuit seeks compensatory damages on behalf of plaintiff Y'TESIA TAYLOR, who was burned and severely injured by a can of PAM Cooking Spray, which Defendants, CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. (collectively, the "DEFENDANTS"), designed, manufactured, marketed, sold and distributed.

COMMON ALLEGATIONS

2. At all times relevant to this complaint, Y'TESIA TAYLOR was a resident of Greenville, Texas.

3. At all times relevant to this complaint, Defendant CONAGRA FOODS, INC. was a Delaware corporation with its principal place of business in Chicago, Illinois. It is currently a registered trade name for Defendant Conagra Brands, Inc.

4. At all times relevant to this complaint, Defendant CONAGRA BRANDS, INC. was a Delaware corporation with its principal place of business in Chicago, Illinois. It was formerly known as ConAgra Foods, Inc.

5. Defendant CONAGRA BRANDS, INC. is the successor in interest to CONAGRA FOODS, INC.

6. At all times relevant to the allegations in this complaint, DEFENDANTS were and are in the business of manufacturing, advertising and promoting the sale of various food brands, including PAM Cooking Spray.

7. DEFENDANTS designed, manufactured, filled, and/or sold the canister of PAM Cooking Spray that exploded in the kitchen of Y'TESIA TAYLOR.

8. The canister of PAM Cooking Spray at issue was designed, manufactured and filled in Illinois.

9. The canister of PAM Cooking Spray at issue was designed and manufactured with u-shaped vents on the domed bottom of the canister that were designed to open when the can buckled or when the bottom of the canister became convex instead of concave.

10. The canister of PAM Cooking Spray at issue was designed and manufactured so that when the can buckled and the u-shaped vents on the bottom of the canister opened, the internal contents of the canister would escape through the vents and the pressure inside the can would be reduced.

11. The contents of the canister of PAM Cooking Spray at issue included not only cooking oil, but also propellants, including extremely flammable materials such as propane and butane.

12. DEFENDANTS designed, manufactured, filled, and/or sold PAM Cooking Spray for use in consumer kitchens.

13. The PAM Cooking Spray reached Y'TESIA TAYLOR without substantial change in its condition and was stored and used in a reasonably foreseeable manner on July 15, 2017.

14. On July 15, 2017, Y'TESIA TAYLOR was cooking in the kitchen at her residence in Greenville, Texas.

15. At said time and place, Y'TESIA TAYLOR sprayed a baking dish with a canister of PAM Cooking Spray and placed the canister on a rolling wooden utility cart which was situated adjacent to the stove while she was preparing food.

16. Y'TESIA TAYLOR placed the baking dish in the oven, and as she closed the door, she heard a loud noise as the canister suddenly and without warning began spraying its extremely flammable contents through the u-shaped vents on the bottom of the can and exploded into flames, causing burns to Y'TESIA TAYLOR and igniting a fire in the kitchen¹.

COUNT I – STRICT PRODUCTS LIABILITY
(Y'TESIA TAYLOR v. Conagra Foods, Inc. & Conagra Brands, Inc.)

17. Y'TESIA TAYLOR incorporates by reference paragraphs 1 through 16 of the Complaint at Law as if fully set forth herein.

18. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. have a duty to place into the stream of commerce, manufacture, distribute, market, promote, and sell PAM Cooking Spray and products that are not defective, unsafe and unreasonably dangerous when put to the use for which it was designed, manufactured, distributed, marketed, and sold.

¹ With permission of the Court, Plaintiff will attach as an exhibit to this Complaint the 911 audio made following the Sysco Cooking Spray explosion at her home in Greenville, Texas as set forth herein.

19. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. did in fact design, manufacture, fill, market, promote, supply, distribute and/or sell PAM Cooking Spray to consumers, including Y'TESIA TAYLOR.

20. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. expected the PAM Cooking Spray it was designing, manufacturing, filling, marketing, promoting, supplying, distributing and selling to reach, and it did in fact reach, consumers in the states of Illinois and Texas, including Y'TESIA TAYLOR, without substantial change in the condition.

21. At the time the PAM Cooking Spray left the possession of CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. and the time the PAM Cooking Spray entered the stream of commerce, the PAM Cooking Spray was in a defective, unsafe and unreasonably dangerous condition. These defects include but are not limited to the following:

- a. The PAM Cooking Spray was capable of venting at temperatures lower than DEFENDANTS' specifications and/or performance standards allow;
- b. The nature and magnitude of the risk of the can venting and causing a fire was high in light of the intended and reasonably foreseeable uses of the products in and around heat sources in the kitchen, including stoves/grills;
- c. The likelihood that product users were aware of this risk was low, given that the product was designed and advertised to be used around stoves/grills, and had no adequate warnings about possible dangers of doing so;
- d. The likelihood of the PAM Cooking Spray causing and/or contributing to a fire due to venting was high in light of the intended and reasonably foreseeable use of the PAM Cooking Spray product around stoves/grills and other heating sources;
- e. The flammability of the PAM Cooking Spray product's ingredients and the PAM Cooking Spray product's risk of venting were more dangerous than a reasonably prudent consumer would expect when used in the intended and reasonably foreseeable manner of cooking;
- f. At the time it left the control of the manufacturer, in the state of technical and scientific knowledge, reasonable and safer alternative designs were available with respect to the flammability of the ingredients, and alternative

can designs would have prevented the venting event and the injuries in this case without substantially impairing the usefulness of the intended purposes of the product;

- g. Failed to provide warnings or instructions concerning the risk of venting, risk of fire, and risk of burn injuries, in light of the likelihood that some users of the PAM Cooking Spray product would use the product in the kitchen and in close proximity to stoves/grills;
- h. Failed to provide adequate warnings concerning the risk of venting, risk of fire, and risk of burn injuries;
- i. Failed to provide adequate warnings concerning the types of propellants in the PAM Cooking Spray product including isobutane and propane;
- j. Failed to provide warnings or instructions concerning the risk of venting, risk of fire, and risk of burn injuries, in light of incident reports that some people had suffered burn injuries due to venting during ordinary use of the PAM Cooking Spray product; and
- k. Were otherwise defective, unsafe and unreasonably dangerous.

22. At all times relevant to this complaint, Y'TESIA TAYLOR used the PAM Cooking Spray for its intended purpose, i.e. cooking spray, and stored it appropriately. There was no other reasonable cause of the PAM Cooking Spray's failure to properly perform other than the PAM Cooking Spray product being defective.

23. Y'TESIA TAYLOR could not have discovered any defect in the PAM Cooking Spray through the exercise of due care.

24. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. as designer, manufacturer, filler, marketer, promoter, supplier, distributor and seller of food products are held to the level of knowledge of an expert in their field.

25. Y'TESIA TAYLOR did not have substantially the same knowledge regarding the dangers of the PAM Cooking Spray as the designer, manufacturer, filler, marketer, promoter, supplier, distributor and seller: CONAGRA FOODS, INC. and CONAGRA BRANDS, INC.

26. As a direct and proximate cause of one or more of the foregoing wrongful acts or omissions by CONAGRA FOODS, INC. and CONAGRA BRANDS, INC., the PAM Cooking Spray canister exploded and Y'TESIA TAYLOR was caused to suffer and sustain injuries of a permanent nature including, but not limited to, burns, scarring, disfigurement, blindness in her right eye, and lung damage. Y'TESIA TAYLOR also suffered great pain and anguish in both mind and body. Y'TESIA TAYLOR was hindered and prevented from her usual and customary duties and affairs. Y'TESIA TAYLOR will be in the future caused to endure great pain, suffering and disability and has expended and become liable for substantial sums of medical care and services while endeavoring to become cured and healed of said injuries and will continue to expend and become liable for additional costs for future medical treatment. Y'TESIA TAYLOR was also caused to lose earnings and will continue to lose earnings. Furthermore, Y'TESIA TAYLOR was unable to and will in the future be unable to attend to her normal affairs and duties for an indefinite period of time.

WHEREFORE, Y'TESIA TAYLOR prays for judgment against Defendants, CONAGRA FOODS, INC. and CONAGRA BRANDS, INC., in a sum in excess of jurisdictional limits of this Court, together with interests and costs of this action.

COUNT II – NEGLIGENCE
(Y'TESIA TAYLOR v. Conagra Foods, Inc. & Conagra Brands, Inc.)

27. Y'TESIA TAYLOR incorporates by reference paragraphs 1 through 26 of the Complaint at Law as if fully set forth herein.

28. At all times relevant, it was the duty of CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. to exercise due care in designing, manufacturing, filling, marketing, promoting, supplying, distributing and/or selling PAM Cooking Spray products such that they would be reasonably safe for their intended use.

29. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. negligence in the design, manufacture, testing, filling, marketing, promotion, supplying, distribution and/or sale of the PAM Cooking Spray products includes but is not limited to the following:

- a. Negligently failed to appropriately inform users of the dangers associated with the PAM Cooking Spray;
- b. Negligently misrepresented material facts regarding the PAM Cooking Spray's safety and fitness for use around stoves/grills and other heating sources when in fact they are not safe for use in these areas;
- c. Negligently misrepresented material facts regarding the PAM Cooking Spray's safety by withholding information regarding adverse events and information about incidents of venting and injury caused by the cans;
- d. After receiving post-marketing incident reports and/or testing data, CONAGRA FOODS, INC. and CONAGRA BRANDS, INC., knew, or in the exercise of reasonable care, should have known that there was a significant risk of venting, fire, and burn injuries associated with the use and/or storage of the PAM Cooking Spray product and failed to communicate or warn users of this information;
- e. Failed to provide warnings or instructions concerning the risk of venting, risk of fire, and risk of burn injuries, in light of the likelihood that some users of the PAM Cooking Spray product would use the product in the kitchen and in close proximity to stoves/grills;
- f. Failed to provide adequate warnings concerning the risk of venting, risk of fire, and risk of burn injuries;
- g. Failed to provide adequate warnings concerning the types of propellants in the PAM Cooking Spray product including isobutane and propane;
- h. Failed to provide warnings or instructions concerning the risk of venting, risk of fire, and risk of burn injuries, in light of incident reports that some people had suffered burn injuries due to venting during ordinary use of the PAM Cooking Spray product;
- i. Failed to provide adequate instructions to persons cooking with and around their PAM Cooking Spray products;
- j. Failed to provide adequate instructions concerning safe and/or safer methods of cooking with and around PAM Cooking Spray products;

- k. Failed to conduct adequate testing on their PAM Cooking Spray products to determine the venting hazards to which consumers and individuals such as Y'TESIA TAYLOR may be exposed to while working with and/or around their products;
- l. Failed to monitor and analyze what post-marketing reports observed with regard to individuals working with and around DEFENDANTS' PAM Cooking Spray products and/or substantially similar products;
- m. Used a canister which was not designed and/or manufactured to withstand a pressure of at least 270 psig at 130 degrees Fahrenheit without bursting in violation of 49 C.F.R. §178.33a(3)(ii); and
- n. Were otherwise negligent in the design, manufacture, marketing, advertisement, promotion, sale and distribution of the PAM Cooking Spray products.

30. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. knew or had reason to know that Y'TESIA TAYLOR, as a member of the general public for whose use the PAM Cooking Spray was placed into interstate commerce, would be likely to use the PAM Cooking Spray in a manner described in this Complaint.

31. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. knew or reasonably should have known of the danger associated with the manner and circumstances of Y'TESIA TAYLOR's foreseeable use of the PAM Cooking Spray, which danger would not be obvious to the general public.

32. Y'TESIA TAYLOR used the PAM Cooking Spray for its intended purpose, i.e. cooking spray, and stored it appropriately, and there was no other reasonable cause of the PAM Cooking Spray's failure to properly perform other than the PAM Cooking Spray product being defective.

33. Y'TESIA TAYLOR could not have discovered any defect in the PAM Cooking Spray through the exercise of due care.

34. CONAGRA FOODS, INC. and CONAGRA BRANDS, INC. as designers, manufacturers, testers, fillers, marketers, promoters, suppliers, distributors and sellers of food products are held to the level of knowledge of an expert in their field.

35. Y'TESIA TAYLOR did not have substantially the same knowledge regarding the dangers of the PAM Cooking Spray as the designer, manufacturer, filler, marketer, promoter, supplier, distributor and seller: CONAGRA FOODS, INC. and CONAGRA BRANDS, INC.

36. As a direct and proximate cause of one or more of the foregoing wrongful acts or omissions by CONAGRA FOODS, INC. and CONAGRA BRANDS, INC., the PAM Cooking Spray canister exploded and Y'TESIA TAYLOR was caused to suffer and sustain injuries of a permanent nature including, but not limited to, burns, scarring, disfigurement, blindness in her right eye, and lung damage. Y'TESIA TAYLOR also suffered great pain and anguish in both mind and body. Y'TESIA TAYLOR was hindered and prevented from her usual and customary duties and affairs. Y'TESIA TAYLOR will be in the future caused to endure great pain, suffering and disability and has expended and become liable for substantial sums of medical care and services while endeavoring to become cured and healed of said injuries and will continue to expend and become liable for additional costs for future medical treatment. Y'TESIA TAYLOR was also caused to lose earnings and will continue to lose earnings. Furthermore, Y'TESIA TAYLOR was unable to and will in the future be unable to attend to her normal affairs and duties for an indefinite period of time.

WHEREFORE, Y'TESIA TAYLOR prays for judgment against Defendants, CONAGRA FOODS, INC. and CONAGRA BRANDS, INC., in a sum in excess of jurisdictional limits of this Court, together with interests and costs of this action.

JURY DEMAND

PLAINTIFF HEREIN DEMANDS A TRIAL BY JURY.

RESPECTFULLY SUBMITTED,

MEYERS & FLOWERS, LLC.

By: _____

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