

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. 18-3952A

BARBARA WELCH, JUDY GALVIN, Individually,  
and as Guardian of her minor child, MATTHEW  
STEZELECKI, JOHN STEZELECKI, SEAN  
ROBBINS, JAMES ROBBINS, JULIA GATULIS and  
BARBARA GALVIN,  
Plaintiffs,

v.

HEWLETT-PACKARD CO. and  
BJ'S WHOLESALE CLUB, INC.,  
Defendants.

SUFFOLK SUPERIOR COURT  
CIVIL DEPARTMENT  
2018 DEC 24 P 3:37  
CLERK / MAJOR

**COMPLAINT AND JURY DEMAND**

**PARTIES**

1. The Plaintiff Barbara Welch is a Massachusetts citizen residing at 22 Taylor Avenue, Dedham, Norfolk County, MA. Ms. Welch is the owner of 31 Mercer Street, Boston, Suffolk County, MA.
2. The Plaintiff Judith Galvin is a Massachusetts citizen who resided at 31 Mercer Street, Boston, Suffolk County, MA, along with her son, the Plaintiff Matthew Stezelecki, a minor, until that property was destroyed during a June 26, 2018 fire. They currently reside at 22 Taylor Avenue, Dedham, Norfolk County, MA.
3. The Plaintiff John Stezelecki is a Massachusetts citizen who resided at 31 Mercer Street, Boston, Suffolk County, MA, until that property was destroyed during a June 26, 2018 fire. He currently resides at 8 Front Street, Hull, Plymouth County, MA.

4. The Plaintiff Sean Robbins is a Massachusetts citizen who resided at 31 Mercer Street, Boston, Suffolk County, MA, until that property was destroyed during a June 26, 2018 fire. He currently resides at 22 Taylor Avenue, Dedham, Norfolk County, MA.
5. The Plaintiff James Robbins is a Massachusetts citizen who resided at 31 Mercer Street, Boston, Suffolk County, MA, until that property was destroyed during a June 26, 2018 fire. He currently resides at 22 Taylor Avenue, Dedham, Norfolk County, MA.
6. The Plaintiff Julia Gatulis is a Massachusetts citizen who resided at 31 Mercer Street, Boston, Suffolk County, MA, until that property was destroyed during a June 26, 2018 fire. She currently resides at 22 Taylor Avenue, Dedham, Norfolk County, MA.
7. The Plaintiff Barbara Galvin is a Massachusetts citizen who resides at 22 Taylor Avenue, Dedham, Norfolk County, MA.
8. The Defendant Hewlett-Packard Co. is a foreign corporation with a principal place of business of 1501 Page Mill Road, Palo Alto, CA. Hewlett-Packard does business in Massachusetts.
9. The Defendant BJ's Wholesale Club, Inc. is a Massachusetts corporation with a principal place of business of 25 Research Drive, Westborough, Worcester County, MA.

#### **FACTS**

10. 31 Mercer Street (the "Property") contained a three-family home located in Boston, MA. At all relevant times, the Property was owned by Plaintiff Barbara Welch.
11. Plaintiff Julia Gatulis is an elderly woman (age 98) who is the mother of Plaintiff Barbara Welch. Julia Gatulis resided on the first floor of the Property. The third floor of the Property was occupied by Judy Galvin (Barbara Welch's daughter), her partner John Stezelecki, Judy's adult son Sean Robbins and Judy's minor son, Matthew Stezelecki. The

second floor of the Property was occupied by Judy's adult son James Robbins. Barbara Galvin (Barbara Welch's daughter) did not live at the Property but stored personal property there.

12. On April 29, 2012, Barbara Welch purchased a Hewlett-Packard model HP DV6-6C15NR laptop from BJ's Wholesale Club (the "laptop"). The laptop was purchased for, and given to, her grandson Sean Robbins.
13. On June 26, 2018, the laptop was on a bed in a bedroom on the third floor of the Property. While the laptop was not in use and in the "off" position, it suddenly and spontaneously caught fire and ignited the bedding.
14. The fire spread from the third floor bedroom and destroyed the entire structure and all of the contents contained therein.
15. At the time of the fire, Sean Robbins was located in the basement of the Property, Judy Galvin was located in the third floor apartment, and Julia Gatulis was located in the first floor apartment.
16. Sean Robbins, Judy Galvin and Julia Gatulis, barely escaped the fire with the assistance of the Boston Fire Department. Judy Galvin and Julia Gatulis were transported and admitted to the intensive care unit of a Boston hospital with severe personal injuries.
17. As a result of the fire, the Plaintiffs lost real property, personal property, experienced pain and suffering and severe emotional distress, and suffered financial damages associated with being displaced from their home.
18. Following a cause and origin investigation, the Boston Fire Department and the State Fire Marshal's Office determined that the cause of the fire was the laptop.

**COUNT I - NEGLIGENCE**

19. The Plaintiffs repeat and incorporate by reference the allegations contained in Paragraphs 1 through 18 above.
20. The fire was caused by the explosion and/or combustion of the Hewlett-Packard laptop and battery which, in turn, ignited the bedding in the third floor bedroom. Defendants were negligent in their design, testing, manufacture and sale of the subject laptop, in that the batteries of this and other Hewlett-Packard laptops were prone to exploding, combusting and catching fire.
21. When the Plaintiffs sustained the injuries alleged above, the laptop was in a defective condition, unreasonably dangerous to a user or consumer in that it was unfit, unsafe, not usable for the purpose for which it was intended, dangerous and defective in nature, design, materials and defective in manufacture.
22. Such condition was not observable by Plaintiffs who, lacking the technical knowledge and skill required to examine or determine said defects described above, relied on the duty of the Defendants to deliver the laptop at the time of sale in a condition fit for use for the purpose intended and in a safe and operable condition.
23. The defect in the laptop was the direct and proximate cause of the injury and damages suffered by Plaintiffs.

WHEREFORE, the Plaintiffs hereby demand that judgment enter against the Defendants and in their favor for all damages, costs, interest and attorneys' fees, and for such other relief as the Court deems just.

**COUNT II - BREACH OF EXPRESS AND IMPLIED WARRANTIES**

24. The Plaintiffs repeat and incorporate by reference the allegations contained in Paragraphs 1 through 23.
25. The Defendants were negligent in their design, testing, manufacture and sale of the subject laptop, in that the batteries of this and other Hewlett-Packard laptops were prone to exploding, combusting and catching fire.
26. The Defendants expressly and impliedly warranted that the laptop was merchantable, safe and fit for its normal purpose, and failed to warn the Plaintiffs otherwise.
27. The Defendants had reason to know that the batteries of this and other laptops were prone to exploding, combusting and catching fire.
28. The Defendants breached these warranties in that the laptop was not merchantable, safe and fit for its normal purpose at the time of sale.
29. The defects in the laptop were the direct and proximate cause of the injury and damages suffered by Plaintiffs.
30. The Defendants are strictly liable to the Plaintiffs.

WHEREFORE, the Plaintiffs hereby demand that judgment enter against the Defendants and in their favor for all damages, costs, interest and attorneys' fees, and for such other relief as the Court deems just.

**COUNT III - FAILURE TO WARN**

31. The Plaintiffs repeat and incorporate by reference the allegations contained in Paragraphs 1 through 30.
32. The Defendants had reason to know that the batteries of this and other laptops were prone to exploding, combusting and catching fire.

33. Despite their knowledge of the explosion and fire risks, Defendants continued to market and sell this and other defective laptops to consumers.
34. The Defendants failed to warn consumers of the known explosion and fire risks.
35. The defects in the laptop were the direct and proximate cause of the injury and damages suffered by Plaintiffs.
36. The Defendants are strictly liable to the Plaintiffs.

WHEREFORE, the Plaintiffs hereby demand that judgment enter against the Defendants and in their favor for all damages, costs, interest and attorneys' fees, and for such other relief as the Court deems just.

#### **COUNT IV – STRICT LIABILITY**

37. The Plaintiffs repeat and incorporate by reference the allegations contained in Paragraphs 1 through 36.
38. The Defendants at all times material to this action designed, manufactured, distributed and/or sold laptops and placed such products into the market.
39. The defective laptops designed, manufactured, distributed and/or sold by the Defendants are defective and unreasonably dangerous.
40. The defective laptop reached the Plaintiffs without substantial change in the condition in which the product was designed, manufactured, distributed and/or sold by the Defendants.
41. The Defendants owed a duty of care to the Plaintiffs to manufacture, distribute and/or sell laptops that are free from defects and fit for their intended purpose.
42. The Defendants breached this duty to the Plaintiffs by failing to sell laptops that are free from defects and unfit for their intended purpose.
43. Plaintiffs used the laptop in the manner that was intended and expected by the Defendants.

44. The defects in the laptop were the direct and proximate cause of the injury and damages suffered by Plaintiffs.

WHEREFORE, the Plaintiffs hereby demand that judgment enter against the Defendants and in their favor for all damages, costs, interest and attorneys' fees, and for such other relief as the Court deems just.

**COUNT V – VIOLATION OF M.G.L. c. 93A, § 9.**

45. The Plaintiffs repeat and incorporate by reference the allegations contained in Paragraphs 1 through 44.

46. The Defendants were negligent in their design, testing, manufacture and sale of the subject laptop, in that the batteries of this and other Hewlett-Packard laptops were prone to exploding, combusting and catching fire.

47. The Defendants expressly and impliedly warranted that the laptop was merchantable, safe and fit for its normal purpose, and failed to warn the Plaintiffs otherwise.

48. The Defendants had reason to know that the batteries of this and other laptops were prone to exploding, combusting and catching fire.

49. The Defendants breached these warranties in that the laptop was not merchantable, safe and fit for its normal purpose at the time of sale.

50. The defects in the laptop were the direct and proximate cause of the injury and damages suffered by Plaintiffs.

51. The Plaintiffs sent the Defendants a M.G.L. c. 93A demand letter on November 16, 2018.

52. The Defendants breached the warranty of merchantability, which is a violation of M.G.L. c. 93A, § 9.

53. All conditions precedent to the bringing of this action have been performed or have occurred.

WHEREFORE, the Plaintiffs hereby demand that judgment enter against the Defendants and in their favor for all damages, costs, interest and attorneys' fees, and for such other relief as the Court deems just.

**JURY DEMAND**

The Plaintiffs hereby demand a trial by jury on all Counts.

Respectfully submitted,

The Plaintiffs,  
BARBARA WELCH, JUDY GALVIN,  
Individually and as Guardian of her minor child,  
MATTHEW STEZELECKI, JOHN STEZELECKI,  
SEAN ROBBINS, JAMES ROBBINS,  
JULIA GATULIS and BARBARA GALVIN,  
By their attorneys,

**PIERCE DAVIS & PERRITANO LLP**



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Dated: December 18, 2018