

VICTIM OF ITS OWN SUCCESS?

TRIFECTA OF PRODUCT LIABILITY

TROUBLE BEFALLS PELOTON

by Adam Langino and Rachael Flanagan

As product liability lawyers, we know that one of the goals of every product company should be the safety of its users. Many companies take significant measures to ensure they follow this objective in terms of product design, manufacturing, and notification compliance. Occasionally a company may fall short of design standards and safety measures and/or fails to make it right.

Peloton saw significant growth and success during the COVID-19 pandemic. New work and lifestyle demands have necessitated the adoption of different methods of exercise and stress relief, including the creation of in-home gyms outfitted with Peloton bikes and treadmills. Unfortunately for Peloton, they have also realized that a rise in popularity and product demand can lead to a rise in consumer safety concerns. Since October 2020, Peloton has faced three Consumer Product Safety Commission (CPSC) product recalls for three separate products based on three different types of product liability claims.

As the below three recalls show, Peloton has scored a product liability trifecta.

Manufacturing Defect

In Florida, under strict liability, a product is “unreasonably dangerous because of a manufacturing defect if it is different from its intended design and fails to perform as safely as the intended design would have performed.”¹ It appears Peloton’s manufacturing is missing the mark.

In October 2020, the CPSC issued a recall on the PR70P Clip-In Pedals fitted on Peloton bikes (sold between July 2013 and May 2016).² The CPSC received more than 120 consumer reports of pedal breakages, including 16 reports of leg injuries. Five of those injuries required medical care, such as stitches to the lower leg. This recall was for approximately 27,000 bikes (54,000 pedals).

According to Healthline and Reddit, the complaints go back five months to early 2020, when users describe that the pedal “snapped clean off from the arm while I was standing up riding.”^{3,4} The same

user posted a photo, demonstrating that the break occurred where the pedal spindle joins the crankset.⁵

Another Reddit user described how her pedal started clicking and then broke off during the home trial period.⁶ Peloton agreed to extend the trial and send a new part for the user to do a self-repair — but as the user correctly assessed, “an attempt at self-repair could void my warranty.” Pictures of the damaged pedal are posted online.⁷ Again, the issue appears to be associated with the pedal spindle joint and the crankset.

According to Peloton’s annual report, their main manufacturing partner is Tonic Fitness Technology, acquired by Peloton in October 2019, and more recently in November 2020, Raxon Industrial Corp.⁸ Both manufacturing entities are based in Taiwan. Peloton itself is a New York corporation, meaning any Florida-based personal injury claim without a local defendant is likely to be heard in federal court.

Defective Design

In Florida, under strict liability, a product is “unreasonably dangerous because of its design if the product fails to perform as safely as an ordinary consumer would expect when used as intended or when used in a manner reasonably foreseeable by the manufacturer or the risk of danger in the design outweighs the benefits.”⁹

On May 5, 2021, the CPSC issued a recall of Peloton’s TR02 Tread treadmill.¹⁰ This treadmill had an issue with the touch screen, which could detach and fall, posing a risk of injury to consumers. There were about 1,050 sold in the U.S., and there were 18 reports of the touch screen loosening and six reports of the touch screen detaching and falling. “No injuries have been reported in the U.S. There have been reports of minor injuries such as abrasions, minor cuts, and bruises in Canada and the United Kingdom.”¹¹

According to YouTube DIY videos, the Peloton screen falls off due to screws coming loose as a result of machine use vibrations.¹² As the video indicates, the issue can be addressed with Peloton-sup-

plied Allen or hex keys and glue. However, for those users who may be unaware of this issue, this design defect can be a cause of personal injury as well as property damage.

According to Peloton's website, "In the United States, the Tread was only sold as part of a limited invitation-only release from about November, 2020 to about March, 2021 and the company is currently working on a repair to be offered to Tread owners in the coming weeks."¹³

Also on May 5, 2021, the CPSC recalled Peloton's higher-end treadmill called the "Tread+" (model No. TR-01 was called "Tread" from August 2018 to September 2020).¹⁴ In a statement made by the CPSC, it reports, "To date, CPSC is aware of 39 incidents including one death. CPSC staff believes the Peloton Tread+ poses serious risks to children for abrasions, fractures, and death. In light of multiple reports of children becoming entrapped, pinned, and pulled under the rear roller of the product, CPSC urges consumers with children at home to stop using the product immediately."¹⁵

According to Consumer Reports, Peloton has extended a full refund for the Tread+ until November 6, 2022.¹⁶ Consumers who return the Tread+ treadmill after that date will receive a partial refund. For consumers who do not want a refund, Peloton is offering to move the treadmill free of charge to a room where children or pets cannot access the treadmill.

The company is also implementing software improvements to the product that will automatically lock the Tread+ after each use and prevent unauthorized access. However, the lockout feature is likely not an adequate fix. It is simply a software program that requires users to enter a PIN code prior to starting the device. As the CPSC noted, some injuries occurred during authorized access, such as when a child or pet would get too close to the treadmill during an adult's normal operation.

From a design perspective, the Peloton treadmills differ from those of its competitors in several aspects. First, there is no rear-

guard preventing objects from sliding underneath the product. Second, Peloton's treadmills sit higher off the ground than a typical treadmill, allowing more space for objects to slide underneath. Finally, it has more grip than typical treadmills because it uses individual slats as opposed to a typical belt. Despite these design issues, Peloton continues to sell the Peloton Tread and Tread+ on its website. A barely noticeable product recall notification is only accessible on the Treads landing page on the Investor landing page.

Conclusion

As the Florida Supreme Court said in *Aubin v. Union Carbide Corp.*, 177 So. 3d 489, 510 (Fla. 2015), "the burden of compensating victims of unreasonably dangerous products is placed on the manufacturers, who are most able to protect against the risk of harm, and not on the consumer injured by the product." Presently, Peloton's Tread and Tread+ pose a considerable harm to consumers. Unfortunately, Peloton is continuing to sell its treadmills despite its safety design problems. Soon, it will be bearing the financial burden of compensating users harmed by its dangerous and defective products. ■



ADAM J. LANGINO

is an attorney with Cohen Milstein Sellers & Toll, PLLC, and is licensed to practice law in North Carolina, in addition to Florida. His practice focuses on dangerous consumer products, defective vehicles, and injuries to children, in addition to general negligence claims. He is often recognized in both North Carolina and Florida as a leader in the legal community and publishes and lectures nationally.



RACHAEL FLANAGAN

is an attorney with Cohen Milstein Sellers & Toll, PLLC, and is licensed to practice law in Florida and the District of Columbia. Her practice includes product liability, managed care abuse, medical malpractice, and general negligence.

¹ Fla. Std. Jury Instr. (Civ.) 403.7(a).

² *Peloton Recalls PR70P Bike Pedals Due to Laceration Hazard*, U.S. CPSC (Oct. 15, 2020), www.cpsc.gov/recalls/2021/peloton-recalls-pr70p-bike-pedals-due-to-laceration-hazard-recall-alert.

³ George Citroner, *Peloton Recalls Pedals After Multiple Injuries: What to Know*, Healthline (Oct. 20, 2020), www.healthline.com/health-news/peloton-recalls-pedals-after-multiple-injuries-what-to-know.

⁴ *Warning – Pedal snapped clean off during first ride*, Reddit (May 18, 2020), www.reddit.com/r/pelotoncycle/comments/gmbq3k/warning_pedal_snapped_clean_off_during_first_ride.

⁵ www.imgur.com/a/2KpHfZL (May 18, 2020); www.reddit.com/r/pelotoncycle/comments/ghmm8/broken_crankpedal_arm_during_my_home_trial_poor.

⁶ *Broken crank/pedal arm during my home trial – poor support experience*, Reddit (May 11, 2020).

⁷ www.imgur.com/a/RTWl83A. Fla. Std. Jury Instr. (Civ.) 403.7(b).

⁸ Peloton Interactive, Inc., *2020 Annual Report*, <https://investor.onepeloton.com/sec-filings/sec-filing/10-k/0001639825-20-000122>.

⁹ Fla. Std. Jury Instr. 403.7(b).

¹⁰ *Peloton Recalls Tread Treadmills Due to Risk of Injury*, U.S. CPSC (May 5, 2021), www.cpsc.gov/recalls/2021/peloton-recalls-tread-treadmills-due-to-risk-of-injury.

¹¹ *Id.*

¹² Steve Julien, *New Peloton Tread Screens Are Falling Off! How to Stop It Happening to You*, YouTube (April 8, 2021), www.youtube.com/watch?app=desktop&v=qVX7kUj_KV0.

¹³ *CPSC and Peloton Announce: Recall of Tread+ Treadmills After One Child Death and 70 Incidents; Recall of Tread Treadmills Due to Risk of Injury*, Peloton (May 5, 2021), www.onepeloton.com/press/articles/tread-and-tread-recall.

¹⁴ *CPSC Warns Consumers: Stop Using the Peloton Tread+*, U.S. CPSC (April 17, 2021), www.cpsc.gov/newsroom/news-releases/2021/cpsc-warns-consumers-stop-using-the-peloton-tread.

¹⁵ *Id.*

¹⁶ Rachael Peachman, *Peloton Recalls Its Tread+ and Tread Treadmills After They Were Linked to Serious Safety Hazards*, Consumer Reports (May 7, 2021), www.consumerreports.org/home-product-recalls/peloton-tread-tread-plus-treadmills-recalled-serious-safety-hazards.