

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

FARM BUREAU PROPERTY &
CASUALTY INSURANCE COMPANY
a/s/o DANE MEYER,

Plaintiff,

vs.

AMAZON.COM, INC.,

Defendant.

Court File No.:

COMPLAINT

Farm Bureau Property & Casualty Insurance Company a/s/o Dane Meyer, by and through its attorneys, Yost & Baill, LLP, for its Complaint against Defendant Amazon.com Inc., states:

JURISDICTION & VENUE

1. Jurisdiction is founded upon diversity of citizenship pursuant to 28 U.S.C. § 1332. The Plaintiff and Defendant are citizens of different states, are diverse parties, and the amount in controversy exceeds \$75,000.00.
2. Venue is proper in the District of Minnesota pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the events or omissions giving rise to the claim occurred in this district and that a substantial part of property that is the subject of this action is situated in this district.

PARTIES

3. Plaintiff Farm Bureau Property & Casualty Insurance Company (“Farm Bureau”), is an insurance company with its principal place of business in Des Moines, Iowa and is duly licensed to sell insurance and conduct business within the State of Minnesota.
4. At all times material herein, Farm Bureau issued a policy of insurance to Dane Meyer (“Meyer”), the owner of a Powerwings Lithium-Ion 18V 4000mAh 72Wh Snap On Battery, Amazon Standard Identification Number B07GV8ZDKM (the “Battery”), who resides at 3217 County Road 10, Cottonwood, MN 56229.
5. Defendant, Amazon.com, Inc. (“Amazon”), is a Delaware corporation with its principal place of business located at 410 Terry Avenue North, Seattle, Washington. Its registered agent for service of process in the State of Washington is Corporation Service Company, 300 Deschutes Way SW, Suite 304, Tumwater, Washington.

FACTS

6. On April 22, 2019, Meyer purchased the Battery for use with his Snap On Charger and Adapter at his home, located at 3217 County Road 10, Cottonwood, MN 86229.
7. Meyer purchased the Battery from Amazon based upon the promotion of the Battery on Amazon’s website, including but not limited to the Battery’s inclusion as part of Amazon’s “Prime” program and the Battery’s, still current, inclusion as an “Amazon’s Choice” product.
8. Amazon’s “Prime” program is a fee-based subscription service that provides Amazon users with free two-day shipping on items fulfilled by Amazon.
9. Through its “Amazon’s Choice” program, Amazon “recommends highly rated, well-priced products available to ship immediately.”

10. Amazon implicitly and explicitly represented that the Battery was safe for use with the “Compatible Models” detailed in its listing by marketing it for sale and recommending it as an Amazon’s Choice product on its website where thousands of other products were sold—including Amazon’s own products—and providing a process for returns.
11. Amazon played a direct role in the promotion, sales, fulfillment, and distribution of the Battery.
12. The Battery arrived at Meyer’s residence in a box bearing the Amazon logo.
13. Upon information and belief, the manufacturer and original seller of the product and all parties other than Amazon in the distribution chain are Chinese companies not subject to jurisdiction in the State of Minnesota.
14. The purchase order that included the product was 113-5942778-1114648.
15. The Battery—promoted, recommended, sold, fulfilled, and distributed by Amazon—did not meet minimum design and instruction requirements to be used safely with all of the “Compatible Models” itemized on the Amazon listing.
16. On or about May 3, 2019, the Battery, while being operated in compliance with the Battery listing’s “Compatible Models” details on Amazon, started a fire at Meyer’s home in Cottonwood, Minnesota.
17. The fire was started as a result of the Battery’s combustion in the northwest corner of the garage.
18. The cause of the Battery’s combustion was its use with an incompatible charger model—a model that was included in the Amazon the Battery listing’s “Compatible Models” details.

19. As a result of the fire, Meyer's garage was destroyed as well as the contents therein, other personal property and areas of the Meyer residence were damaged, and medical services were required, all in excess of \$75,000.00.
20. Pursuant to the terms and conditions of the insurance policy referenced in paragraph 4 of this Complaint, Farm Bureau was obligated to and did, in fact, pay an amount in excess of \$75,000.00 to or on behalf of Meyer for damages incurred as a result of the fire.
21. Pursuant to the terms and conditions of the insurance policy referenced in paragraph 4 of this Complaint, and by virtue of its payments to Meyer for damages incurred as a result of the fire, Farm Bureau is subrogated to all rights, claims, and causes of action Meyer may have against Amazon in connection with the fire.

COUNT ONE – NEGLIGENCE

22. Farm Bureau realleges Paragraphs 1 through 21, as though fully set forth herein.
23. At all times herein, Amazon had a duty to exercise reasonable care in the promotion, recommendation, selling, and/or distribution of the Battery.
24. Amazon failed to fulfill such duty in the following ways:
 - a. In promoting, recommending, selling and/or distributing the Battery, causing the Battery to be used in an unsafe manner;
 - b. In promoting, recommending, selling, packaging, and/or distributing the Battery with defective information for use, unreasonably dangerous to the consumer as the Battery's compatibility information was given such that under normal circumstances and use, the battery would combust.

- i. This defective information caused the Battery to be used in a manner which had a propensity for causing physical harm beyond that which would be contemplated by an ordinary user consumer such as Meyer.
- ii. Amazon knew or should have known of the dangerous compatibility information and its propensity to risk combustion of the Battery given the above flaws and its willing decision to promote, recommend, sell, fulfill, and/or distribute the Battery to the public.

As a result, Amazon's conduct in promoting, recommending, selling, fulfilling, and/or distributing such Battery was unreasonable in view of the foreseeable risk of fire and injury.

25. Without such negligence, the damage alleged herein to Meyer and Farm Bureau would not have occurred as such damage was the natural and probable result of Amazon's negligence. There being no intervening cause, Amazon proximately caused the aforementioned fire and damages sustained by Meyer and Farm Bureau.

COUNT TWO – BREACH OF WARRANTY

26. Farm Bureau realleges Paragraphs 1 through 25, as though fully set forth herein.
27. Amazon expressly or impliedly warranted the fitness and merchantability of the Battery and its accompanying use instructions described herein.
28. Amazon further expressly or impliedly warranted that the Battery described herein would be free from defects in workmanship, material, and use instruction.
29. Amazon breached the aforementioned express or implied warranties by selling and distributing a battery with the defective information described above and said breaches of

warranties were a direct and proximate cause of the fire and resultant damages to Plaintiff as described above.

COUNT THREE – STRICT LIABILITY

30. Farm Bureau realleges Paragraphs 1 through 29, as though fully set forth herein.
31. At all times material, Amazon was in the business of promoting, selling, and distributing products, including but not limited to, the Battery that failed in Meyer's garage.
32. Amazon expected the Battery to, and it did, reach Meyer without substantial change in the condition in which it was sold.
33. The Battery combusted and caused fire damage because its compatibility and use instructions were defectively designed or manufactured.
34. The Battery and its accompanying compatibility instructions were in a defective condition when they left the control of Amazon.
35. The Battery and its accompanying use instructions were unreasonably dangerous to the real and personal property owned by Meyer and to his person and those persons nearby.
36. The defective condition of the Battery's use instructions was the direct and proximate cause of the fire and resulting damages, described more fully above.
37. Amazon is strictly liable for the damages sustained by Meyer and Farm Bureau as described herein.

COUNT FOUR – FAILURE TO WARN

38. Farm Bureau realleges Paragraphs 1 through 37, as though fully set forth herein.
39. Amazon, as promoter, recommender, seller, and distributor of the Battery, had a duty to adequately warn users and Meyer of the risks set forth above inherent in the way the

Battery was marketed and the dangers posed by its use in compliance with its compatibility details.

40. Amazon negligently failed to provide Meyer with reasonable warnings of defects—including the defect and/or fire hazard described above—associated with the use of the Battery, and hazards which it knew or should have known were present in the product described herein. As a result, the Battery was rendered unreasonably dangerous and posed a risk of harm beyond that which would be contemplated by the ordinary foreseeable user, Meyer, and this was a direct and proximate cause of the fire and resultant damages to Meyer and Farm Bureau as described above.

WHEREFORE, Plaintiff Farm Bureau Property & Casualty Insurance Company a/s/o Dane Meyer respectfully requests that judgment be entered in its favor and against Defendant Amazon.com, Inc. in an amount in excess of \$75,000.00, plus costs, and for such other or further relief this Court deems equitable and just. Plaintiff requests a trial by jury.

Dated: March 19, 2020

YOST & BAILL, LLP

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