

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**MARKEITH MITCHELL, on behalf  
of himself and all others similarly  
situated,** )

**Plaintiff,** )

**v.** )

**HARBOR FREIGHT TOOLS USA,  
INC.,** )

**Defendant.** )

**CIVIL ACTION FILE NO.:**  
**5:20-cv-236**

**CLASS ACTION COMPLAINT**

1. This complaint brings claims for breach of warranty, negligence, and products liability against Harbor Freight Tools USA, Inc. (Harbor Freight) relating to jack stands sold by Defendant. These stands, including the Pittsburgh Automotive 6-Ton Heavy Duty Steel Jack Stand (Part 61197) purchased by Plaintiff Markeith Mitchell, were manufactured with a defect that made them inherently dangerous. Plaintiff, like all the purchasers of the jack stands, was damaged because he purchased a product that was unmerchantable and unfit for its intended purpose.

**PARTIES, JURISDICTION, AND VENUE**

2. Plaintiff Markeith Mitchell is an adult resident citizen of Laurens County, Georgia.

3. Defendant Harbor Freight is a corporation existing under the laws of Delaware with its principal place of business at 26541 Agoura Road in Calabasas, California 91302. Defendant Harbor Freight is a corporate citizen of Delaware and California but may be served through its registered agent, Corporate Creations Network, Inc. at 2985 Gordy Parkway, 1st Floor, in Marietta, Georgia 30006.

4. Jurisdiction is proper in this Court under 28 U.S.C. § 1332 because the claims in this case form part of a class action in which the amount in controversy exceeds the sum of \$5,000,000.00 and the members of the class include citizens of different states than some or all of the defendants.

5. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a substantial portion of the events giving rise to plaintiff's complaint occurred in this district.

### **FACTUAL BACKGROUND**

6. Harbor Freight operates roughly 1000 stores nationwide that sell tools. One of these stores is located at 3680 Eisenhower Parkway in Macon, Georgia.

7. Harbor Freight sells jack stands labeled "Pittsburgh Automotive" that come in at least 2 varieties of 3-ton jack stand, item numbers 61196 and 56371, and one variety of six-ton jack stand, item number 61197.

8. The jack stands are unsafe due to inconsistencies in manufacturing caused by aging in the tooling. These inconsistencies make the stands inherently

dangerous because they can collapse under a load causing danger to nearby individuals and property. In addition, the three-ton jack stands had inconsistent location indexing of the pawl armature hole.

9. Plaintiff Markeith Mitchell purchased the six-ton jack stands from the Macon store, with the intent to use the stands for use on his personal vehicles.

10. Mr. Mitchell used the stands on a couple of occasions and experienced a slip on the ratcheting mechanism while lifting his truck. Luckily, Mr. Mitchell had safety mechanisms in place to catch the truck before it slammed to the ground. He discontinued use of the jack stands because he felt they were dangerous.

11. The failure of the jack stands occurred within the applicable limitations period.

12. Mr. Mitchell attempted to return the jack stands to the Macon Harbor Freight store. A customer representative told him that the jack stands were no longer under warranty and could not be returned. Mr. Mitchell had gotten no value out of the stands, and he discarded them because they were unsafe.

### **CLASS ALLEGATIONS**

13. This nationwide class action is maintainable against the defendants pursuant to Rule 23 of the Federal Rules of Civil Procedure. Plaintiff seeks to represent the following class against defendant:

All consumers nationwide who purchased the recalled jack stands (items numbered 56371, 61196, and 61197) that were sold by Defendant for household use. Persons who suffered property damage or injury caused by the jack stands, as well as all employees of the Court and plaintiff's counsel are excluded.

14. Pursuant to Rule 23(a)(1), the class is so numerous that joinder of all class members is impracticable. Harbor Freight sold at least 1.7 million jack stands sold in the United States. The number of purchasers of these jack stands is far too large for practicable joinder in a single suit.

15. Pursuant to Rule 23(a)(2), this case is predominated by questions of law and fact common to all class members, including whether Defendant negligently sold the jack stands or breached the implied warranty of merchantability.

16. Pursuant to Rule 23(a)(3), the claims of the named plaintiff are typical of those of the class. Every member of the class is a consumer that purchased the recalled jack stands for household use.

17. Pursuant to Rule 23(a)(4), the named plaintiff will fairly and adequately represent the interests of the class. The named plaintiff has no interest adverse to the interests of absent class members. The named plaintiff has hired experienced class action plaintiff lawyers as class counsel, who will diligently and competently represent the interests of the class.

18. Pursuant to Rule 23(b), questions of law and fact common to all class members predominate over any questions affecting only individual class members.

The claims of the named plaintiff, like those of all class members, arise out of conduct by the defendant to sell defective jack stands not fit for their intended purpose. This affected all class members, in the same fashion. For these reasons, a class action is far superior to other available methods of adjudicating this controversy. Individual lawsuits would be inefficient and duplicative by comparison.

### **COUNT I: STRICT LIABILITY – MANUFACTURING DEFECT**

19. Plaintiff incorporates by reference the factual allegations of the preceding paragraphs as if fully set forth herein.

20. At all times herein mentioned, Defendant sold, tested, and marketed the jack stands at issue. Plaintiff purchased the jack stands as they were manufactured, without modification from any other party.

21. The jack stands had a manufacturing defect that caused the ratchet teeth on the jack stand lifting extension post to inconsistently engage the pawl to a significant depth.

22. At all times since they were manufactured, the defect made the jack stands unreasonably dangerous to human life and property.

23. Plaintiff and the class suffered damages because they purchased jack stands that were unreasonably dangerous and were unusable in their defective condition.

## **COUNT II: NEGLIGENCE**

24. Plaintiff incorporates by reference the factual allegations of the preceding paragraphs as if fully set forth herein.

25. At all times, Defendant had a duty to use reasonable care in selecting, marketing, and selling the items in its stores.

26. Defendant breached this duty by allowing the defectively manufactured jack stands to be placed in its stores, and by marketing and selling the defectively manufactured jack stands.

27. Defendant's breach caused damage to Plaintiff and the class, because they purchased worthless, dangerous, defectively manufactured jack stands from the Defendant.

## **COUNT III: BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

28. Plaintiff incorporates by reference the factual allegations of the preceding paragraphs as if fully set forth herein.

29. Defendant controlled the marketing and sale of the jack stands at issue, and placed them in the stream of commerce.

30. By offering the jack stands for sale, Defendant impliedly warranted to Plaintiff and the class that they were of merchantable quality, safe, and fit for their intended purpose. See O.C.G.A. § 11-2-314.

31. The jack stands were not of merchantable quality and could not safely be used for their intended purpose. The defects that caused this to be the case were not disclosed to Plaintiff and the class.

32. Plaintiff and the class purchased and used the jack stands in reliance upon the implied warranties of the defendant.

33. Plaintiff and the class suffered damages because they purchased worthless, dangerous jack stands that were neither merchantable nor fit for their intended purpose.

### **CLAIM FOR DAMAGES**

34. Defendant's negligent sale of jack stands that were unreasonably dangerous, unmerchantable, and unfit for their intended purposes caused damage to Plaintiff and the class because the jack stands were worthless in the condition they were purchased.

35. The damages of the Plaintiff and the class should be measured by the purchase price of the worthless jack stands.

### **JURY DEMAND**

Plaintiff demands trial by struck jury on all issues so triable.

### **PRAYER FOR RELIEF**

Plaintiff respectfully prays for the following relief,

(A) An order certifying the above-described nationwide class pursuant to Federal Rule of Civil Procedure 23, with appropriate notice to absent class members;

(B) An order appointing Plaintiff's counsel as class counsel for the nationwide class;

(C) After a jury trial, an award of damages based on the amount lost by Plaintiff and the class in purchasing the worthless jack stands;

(D) Any further or different relief the Court may find appropriate



Respectfully submitted, this 18th day of June 2020.

**STEVEN N. NEWTON, LLC**

*/s/Steven N. Newton*

**STEVEN N. NEWTON**

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Recalled Pittsburgh Auto Heavy Duty Jack Stands Sold by Harbor Freight Are Defective](#)

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