

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

**KHAMICA BINGHAM
AND DAMAR FORBES
PLAINTIFFS**

V.

CASE NO.: _____

**NEW BALANCE ATHLETICS INC.,
AND JOHN DOE COMPANY(S)**

DEFENDANTS.

COMPLAINT FOR DAMAGES

Plaintiffs Khamica Bingham ("Bingham") and Damar Forbes bring this Complaint for damages against New Balance Athletics Inc. ("New Balance") and John Doe Company(s) ("John Doe Company(s)") and allege as follows:

PARTIES

1. Plaintiffs Khamica Bingham and Damar Forbes are residents of the City of Warwick, County of Kent and State of Rhode Island.
2. Bingham is a world class athlete, a participant of the Olympic Games, a sprinter representing Canada, and is employed by Brown University.
3. Plaintiff Damar Forbes is the husband of Plaintiff Khamica Bingham and resides with her in Kent County, in the State of Rhode Island. At all times relevant, Forbes was and remains married to Bingham.
4. Defendant New Balance Athletics, Inc. is a corporation organized and

existing under the laws of the State of Massachusetts, with its principal place of business at 100 Guest Street, Boston, Massachusetts.

5. Defendant John Doe Company(s) are unknown business entities whose actions and omissions caused or contributed to the damages and injuries complained of herein.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) because the parties are citizens of different states and the amount in controversy exceeds \$75,000.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this district.

FACTUAL ALLEGATIONS

7. In 2023, Plaintiff Bingham, who was residing in Rhode Island, was provided with a special sprinting shoe by Defendant New Balance. Upon information and belief, the shoe was specifically designed and manufactured by Defendants.

8. At all times relevant, Bingham was sponsored by Defendant New Balance, who supplied her with athletic gear, including the sprinting shoes involved in this incident.

9. On or about March 27, 2024, while Bingham was training for the 2024 Canadian trials and the 2024 Olympics in North Carolina and using a shoe provided by Defendants.

10. Just as Bingham began sprinting, the shoe suddenly cracked and failed, causing her to suffer a severe injury to her Achilles tendon.

11. As a direct result of the shoe failure, Bingham sustained a career-ending injury that has prevented her from participating in the 2024 Olympic Games and caused her significant pain, suffering, loss of earnings, permanent injury, and loss of enjoyment of life.

12. Prior to the injury, Bingham was named to the Canadian Olympic team in 2016 and participated in the 2021 Olympics for Canada as a sprinter and had been training rigorously for the 2024 Olympics.

CAUSES OF ACTION

COUNT I – STRICT LIABILITY

12. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 11 as though fully set forth herein.

13. Defendants designed, manufactured, marketed, distributed, and/or sold the sprinting shoe in a defective condition, rendering it unreasonably dangerous to users, including Bingham.

14.The shoe was expected to and did reach Bingham without substantial change in the condition in which it was provided and/or sold.

15.As a direct and proximate result of the defective condition of the shoe, Plaintiff Bingham suffered the aforementioned injuries and damages.

COUNT II – NEGLIGENCE

16.Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 11 as though fully set forth herein.

17.Defendants owed a duty of care to Bingham to design, manufacture, and provide a safe sprinting shoe.

18.Defendants breached their duty by failing to exercise reasonable care in the design, manufacture, inspection, and testing of the shoe, which directly caused Bingham's injuries.

COUNT III – BREACH OF WARRANTY

19.Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 11 as though fully set forth herein.

20.Defendants expressly and impliedly warranted that the shoe was of merchantable quality and fit for its intended use.

21.The shoe was not of merchantable quality and was not fit for its intended use, resulting in Plaintiff Bingham's injuries.

COUNT IV – LOSS OF CONSORTIUM

22.Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 21 as though fully set forth herein.

23.At all relevant times, Bingham was married to Plaintiff Damar Forbes.

24.As a result of the injuries sustained by Bingham due to Defendants' actions and negligence, Forbes has suffered and continues to suffer loss of consortium, companionship, society, affection, assistance, and support from his spouse.

25.Defendants' wrongful conduct, as described in the preceding causes of action, directly and proximately caused Forbes' loss of consortium.

26.As a result of Bingham's injury and damages, Forbes has experienced and will continue to experience significant loss, including but not limited to emotional distress, mental anguish, and loss of marital comfort and services.

COUNT V – NEGLIGENT MISREPRESENTATION

27.Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 26 as though fully set forth herein.

28.Defendant New Balance, as Bingham's sponsor, represented that the sprinting shoes provided were safe and suitable for her athletic training and competition.

29. Defendants knew or should have known that the shoes were defective and unreasonably dangerous when making such representations.

30. Bingham relied on the representations of safety and suitability made by New Balance when using the shoes.

31. As a direct and proximate result of the negligent misrepresentation, Bingham suffered severe injury and damages.

COUNT VI – BREACH OF CONTRACT

32. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 31 as though fully set forth herein.

33. At all relevant times, Bingham was sponsored by Defendant New Balance, which provided athletic gear and support pursuant to a contractual relationship.

34. By providing defective shoes that resulted in injury, Defendant New Balance breached its contractual obligations to provide safe and suitable equipment.

35. As a direct and proximate result of this breach, Bingham suffered damages, including but not limited to injury, lost earnings, and loss of professional opportunities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Khamica Bingham and Damar Forbes pray for judgment against Defendants, jointly and severally, as follows:

1. For damages for loss of consortium in an amount to be determined at trial;
2. For general damages in an amount to be determined at trial;
3. For special damages, including but not limited to medical expenses, lost earnings, and loss of earning capacity, in an amount to be determined at trial;
4. For damages for negligent misrepresentation in an amount to be determined at trial;
5. For damages for breach of contract in an amount to be determined at trial;
6. For costs of suit incurred herein; and
7. For such other and further relief as the Court may deem just and proper

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues so triable.

Respectfully submitted,

Plaintiffs,

Khamica Bingham and Damar Forbes,
By their Attorney,

/s/ Anthony Gianfrancesco, Esq.

Anthony J. Gianfrancesco, Esquire (#2762)
GIANFRANCESCO, FRIEDEMANN & MICROULIS,
909 North Main Street, 2nd Floor
Providence, Rhode Island 02904
T: (401) 270-0070
Anthony@gianfrancescolaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of October 2024, I electronically filed the foregoing document with the United States District Court for the District of Rhode Island by using the CM/ECF system. This Document is available to all counsel of record registered with the ECF Filers and will be served by the CM/ECF system:

/s/Veronica Fabian