

IN THE COURT OF COMMON PLEAS  
LANCASTER COUNTY, PENNSYLVANIA

KETTERING GROUP INC. T/A  
KETTERING CHIRO HEALTH  
CENTER  
1601 Columbia Avenue  
Lancaster, PA 17603

Plaintiff,

v.

MIDEA AMERICA COPORATION  
11411 NW 107<sup>th</sup> Suite 12,  
Miami, FL 33178

and

MIDEA USA INC.  
1937 N. Great SW Parkway  
Grand Prairie, TX 75050

and

MIDEA GROUP CO., LTD  
No. 6 Midea Avenue, Lingang Road,  
Forshan City, Guandgdong Province  
P.R. China 528311

and

GD MIDEA AIR-CONDITIONING  
EQUIPMENT CO., LTD  
No. 6 Midea Avenue, Lingang Road,  
Forshan City, Guandgdong Province  
P.R. China 528311

and

MIDEA INTERNATIONAL TRADING  
CO., LTD.  
Unit 3905-11, 39/F  
Tower 6, The Gateway, Harbour City  
9 Canton Road  
Tsim Sha Tsui Kowloon, Hong Kong

CIVIL ACTION - LAW

NO.

**CI-19-08540**

JURY TRIAL DEMANDED

9-10-2019

\$189.75 Bnd

ACH 64176985

receipt 11395

and  
LOWE'S HOME CENTERS, LLC i/d/a  
LOWE'S HOME CENTERS, INC.  
1605 Curtis Bridge Road  
Wilkesboro, NC  
Defendants.

**NOTICE TO DEFEND-CIVIL**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

Lancaster Bar Association  
Lawyer Referral Service  
28 East Orange Street  
Lancaster, PA 17602  
Telephone: (717) 393-0737

**SACKS WESTON DIAMOND, LLC**

BY: JESSE M. COHEN, ESQ.

Identification No. 93020

BY: RYAN BENNETT, ESQ.

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*Attorneys for Plaintiff*

**IN THE COURT OF COMMON PLEAS FOR  
LANCASTER COUNTY, PENNSYLVANIA**

KETTERING GROUP INC. T/A  
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CENTER  
1601 Columbia Avenue  
Lancaster, PA 17603

Plaintiff,

v.

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11411 NW 107<sup>th</sup> Suite 12,  
Miami, FL 33178

and

MIDEA USA INC.  
1937 N. Great SW Parkway  
Grand Prairie, TX 75050

and

MIDEA GROUP CO., LTD  
No. 6 Midea Avenue, Lingang Road,  
Forshan City, Guandgdong Province  
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and

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**CIVIL ACTION - LAW**

**NO.**

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CO., LTD.  
Unit 3905-11, 39/F  
Tower 6, The Gateway, Harbour City  
9 Canton Road  
Tsim Sha Tsui Kowloon, Hong Kong

and

LOWE'S HOME CENTERS, LLC i/d/a  
LOWE'S HOME CENTERS, INC.  
1605 Curtis Bridge Road  
Wilkesboro, NC

Defendants.

### **COMPLAINT**

Plaintiff, Kettering Group Inc. t/a Kettering Chiro Health Center, by and through its counsel, Sacks Weston Diamond, LLC, hereby alleges as follows:

### **PARTIES**

1. Plaintiff, Kettering Group Inc. t/a Kettering Chiro Health Center (hereinafter "Kettering"), is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with its principal place of business located at 1601 Columbia Avenue, Lancaster, Pennsylvania.

2. At all times relevant herein, Kettering was the owner of the building and business personal property located at 1601 Columbia Avenue, Lancaster, Pennsylvania (hereinafter "Property").

3. Defendant Midea America Corporation is a corporation with a principal place of business located at 11411 NW 107<sup>th</sup> Suite 12, Miami, FL 33178.

4. Defendant Midea USA Inc. is a corporation with a principal place of business located at 1937 N. Great SW Parkway, Grand Prairie, TX 75050.

5. Defendant Midea Group Co., Ltd is a Chinese company with principal place of business located at No. 6 Midea Avenue, Lingang Road, Forshan City, Guandgdong Province, P.R. China 528311.

6. Defendant GD Midea Air-Conditioning Equipmet Co., Ltd is a Chinese company with principal place of business located at No. 6 Midea Avenue, Lingang Road, Forshan City, Guandgdong Province, P.R. China 528311.

7. Defendant Midea International Trading Co., Ltd is a Chinese Company with principal place of business located at Unit 3905-11, 39/F, Tower 6, The Gateway, Harbour City, 9 Canton Road, Tsim Sha Tsui Kowloon, Hong Kong.

8. At all times relevant hereto, Midea America Corporation, Midea USA Inc., Midea Group Co., Ltd, GD Midea Air-Conditioning Equipmet Co., Ltd and Midea International Trading Co., Ltd (collectively hereinafter referred to as "Midea") engaged in the business of, among other things, of manufacturing, assembling, distributing and/or selling dehumidifiers.

9. Defendant Lowe's Home Centers, LLC i/d/a Lowe's Home Centers, Inc. (hereinafter "Lowe's") is a North Carolina company with a principal place of business located at 1605 Curtis Bridge Road, Wilkesboro, NC.

10. At times relevant hereto, Lowe's engaged in the business of, among other things, of manufacturing, assembling, distributing and/or selling dehumidifiers.

### **JURISDICTION AND VENUE**

11. Jurisdiction is proper in Lancaster County as all defendants have, for many years prior to this loss, carried on a continuous and systematic part of its general business within this Commonwealth.

12. Venue is proper in Lancaster County under Rule 2179(2) as Lancaster County is a county where defendants regularly conducts business; and under 2179(3) as Lancaster County is the county where the cause of action arose.

### **FACTS COMMON TO ALL COUNTS**

13. Prior to July 9, 2018, Kettering purchased a Midea branded dehumidifier (hereinafter “the Product”) from Lowe’s for use at the Property.

14. On July 9, 2018, Kettering was using the Product in accordance with the manufacturer’s instructions in the unfinished basement of the Property when it failed, ignited, and started a fire.

15. As a result of the fire, the Property sustained fire and smoke damages throughout the Property.

16. As a direct and proximate result of the fire loss, Kettering sustained property and business personal property losses and damages in the amount of \$45,255.67.

### **COUNT I – NEGLIGENCE** **PLAINTIFF v. MIDEA**

17. Plaintiff incorporates by reference all preceding paragraphs of this Complaint the same as if fully set forth hereinafter.

18. The above-described fire loss resulted solely from the negligence, carelessness, and recklessness of Midea.

19. Midea had a duty to persons such as Plaintiff to exercise due care in the manufacturing, assembling, distributing and/or selling the Product and its component parts so as to avoid causing fire losses and other damages.

20. The fire loss of July 9, 2018, and the resultant damages were caused by the negligence and negligent acts and/or omissions of Midea as follows:

- a) Failing to manufacture, assemble, sell, design, test, distribute and/or market a properly functioning product;
- b) Failing to properly inspect, manufacture, distribute and/or test the product;
- c) Negligently substituting inferior and dangerous component materials in the manufacture of the product;
- d) Negligently failing to alert Plaintiff of the product's known defects once the defects were known to defendants;
- e) Failing to properly determine that the product was not in compliance with applicable standards and safety requirements.

21. The fire loss of July 9, 2018 was a direct and proximate result of Midea's careless and negligent conduct, acts and/or omissions as averred above.

22. As a direct and proximate result of the negligence as described above, the fire loss occurred and Kettering sustained property and business personal property losses and damages in the amount of \$45,255.67.

WHEREFORE, Plaintiff demands judgment in its favor and against Midea in the amount of \$45,255.67, together with interests, costs, and such other relief as this Honorable Court deems just and proper under the circumstances.

**COUNT II – NEGLIGENCE**  
**PLAINTIFF v. LOWE’S**

23. Plaintiff incorporates by reference all preceding paragraphs of this Complaint the same as if fully set forth hereinafter.

24. The above-described fire loss resulted solely from the negligence, carelessness, and recklessness of Lowe’s.

25. Lowe’s had a duty to persons such as Plaintiff to exercise due care in the distributing and/or selling the Product and its component parts so as to avoid causing fire losses and other damages.

26. The fire loss of July 9, 2018, and the resultant damages were caused by the negligence and negligent acts and/or omissions of Lowe’s as follows:

- a) Placing a defective Product and its components into the stream of commerce;
- b) Placing a dangerous Product and its components into the stream of commerce;
- c) Failing to properly distribute and/or sell the Product and its components;
- d) Failing to foresee the dangers caused by a distributing and/or selling a defective Product and its components;
- e) Failing to foresee the dangers caused by utilization of an improperly manufactured Product and its components;
- f) Failing to manufacture, assemble, sell, design, test, distribute and/or market a properly functioning product;
- g) Failing to properly inspect, manufacture, distribute and/or test the product;
- h) Negligently substituting inferior and dangerous component materials in the manufacture of the product;



- i) Negligently failing to alert Plaintiff of the product's known defects once the defects were known to defendants;
- j) Failing to properly determine that the product was not in compliance with applicable standards and safety requirements.

27. By virtue of the above-referenced conduct, acts and/or omissions, Lowe's breached its duty of care to Plaintiff.

28. The fire loss of July 9, 2018 was a direct and proximate result of Lowe's careless and negligent conduct, acts and/or omissions as averred above.

29. As a direct and proximate result of the negligence described above, the fire loss occurred and Kettering sustained property and business personal property losses and damages in the amount of \$45,255.67.

WHEREFORE, Plaintiff demands judgment in its favor and against Lowe's in the amount of \$45,255.67, together with interests, costs, and such other relief as this Honorable Court deems just and proper under the circumstances.

**COUNT III – BREACH OF WARRANTY**  
**PLAINTIFF v. MIDEA**

30. Plaintiff incorporates by reference all preceding paragraphs of this Complaint the same as if fully set forth hereinafter.

31. At the time of the sale of the product, defendants knew or had reason to know of the particular purpose for which it would be used, and knew their skill and judgment would be relied upon by consumers such as plaintiff to furnish a suitable product.

32. Given the foregoing, defendants breached the implied warranties of fitness for a particular purpose and set out in the Uniform Commercial Code (UCC) and the applicable statutory

case law of the State and Federal Courts of Pennsylvania in that the product was not fit for the use for which it was intended.

33. Defendants further breached the warranties of merchantability set forth in the UCC and the applicable laws of the State and Federal Courts of this Commonwealth in that the product was not fit for the uses for which it was intended.

34. Defendants further breached any and all express warranties made or relating to the product that became part of the basis of the bargain for the sale of the product in violation of the UCC and the applicable statutory and case law of the State and Federal courts of this Commonwealth.

35. Defendants further breached the express and implied terms set out in the warranties enjoyed by consumers, including but not limited to Plaintiff, at the time of purchasing the product.

36. As a direct and proximate result of the breaches outlined above, the fire loss occurred and Kettering sustained property and business personal property losses and damages in the amount of \$45,255.67.

WHEREFORE, Plaintiff demands judgment in its favor and against Midea in the amount of \$45,255.67, together with interests, costs, and such other relief as this Honorable Court deems just and proper under the circumstances.

**COUNT IV – BREACH OF WARRANTY**  
**PLAINTIFF v. LOWE'S**

37. Plaintiff incorporates by reference all preceding paragraphs of this Complaint the same as if fully set forth hereinafter.

38. At the time of the sale of the product, defendants knew or had reason to know of the particular purpose for which it would be used, and knew their skill and judgment would be relied upon by consumers such as plaintiff to furnish a suitable product.

39. Given the foregoing, defendants breached the implied warranties of fitness for a particular purpose and set out in the Uniform Commercial Code (UCC) and the applicable statutory case law of the State and Federal Courts of Pennsylvania in that the product was not fit for the use for which it was intended.

40. Defendants further breached the warranties of merchantability set forth in the UCC and the applicable laws of the State and Federal Courts of this Commonwealth in that the product was not fit for the uses for which it was intended.

41. Defendants further breached any and all express warranties made or relating to the product that became part of the basis of the bargain for the sale of the product in violation of the UCC and the applicable statutory and case law of the State and Federal courts of this Commonwealth.

42. Defendants further breached the express and implied terms set out in the warranties enjoyed by consumers, including but not limited to Plaintiff, at the time of purchasing the product.

43. As a direct and proximate result of the breaches outlined above, the fire loss occurred and Kettering sustained property and business personal property losses and damages in the amount of \$45,255.67.

WHEREFORE, Plaintiff demands judgment in its favor and against Lowe's in the amount of \$45,255.67, together with interests, costs, and such other relief as this Honorable Court deems just and proper under the circumstances.

Respectfully submitted,  
**SACKS WESTON DIAMOND, LLC**

Dated: September 9, 2019

BY: /s/Jesse M. Cohen

**JESSE M. COHEN, ESQUIRE**

Attorney ID No. 93020

**RYAN BENNETT, ESQ.**

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*Attorneys for Plaintiff*

**VERIFICATION**

I, Diane Lubold, state that I am a Subrogation Claims Specialist with Donegal Insurance Group and its affiliated entities, which are the real parties in interest in this action as to some or all of the issues, filed in the name of the insured, as permitted under Pennsylvania Rule of Civil Procedure 2002. I hereby state that I am acquainted with the facts set forth in the plaintiff's Complaint, that I believe the same to be true and correct to the best of my knowledge, information, and belief, based upon the investigation conducted on behalf of Donegal Insurance Group. This statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



**DIANE LUBOLD**  
Subrogation Claims Specialist  
Donegal Insurance Group

Dated: 8/21/19

~~Sep 09 2013 11:19 AM~~

Ricci Dehl

## NOTICE

**Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:**

**Rule 205.5. Cover Sheet**

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

- (i) actions pursuant to the Protection from Abuse Act, Rules 1910.1 et seq. **CI-19-08540**
- (ii) actions for support, Rules 1910.1 et seq.
- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at [www.pacourts.us](http://www.pacourts.us).

# Supreme Court of Pennsylvania

Court of Common Pleas

Chiro Center Sheet

Lancaster

County

ENTERED AND FILED  
PROTHONOTARY'S OFFICE

LANCASTER, PA

For Prothonotary Use Only: \*\*\*Electronically Filed\*\*\*

Sep 09 2019 11:19AM

Docket No:

Ricci Dehl

STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

## Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition  
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Kettering Group Inc. t/a Kettering Chiro Health Center

Lead Defendant's Name:

Midea America Corporation

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested:  
(check one)

☒ within arbitration limits  
☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Jesse M. Cohen

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

### TORT (do not include Mass Tort)

- ☐ Intentional  
☐ Malicious Prosecution  
☐ Motor Vehicle  
☐ Nuisance  
☐ Premises Liability  
☐ Product Liability (does not include mass tort)  
☐ Slander/Libel/ Defamation  
☒ Other:  
Property Damage

### MASS TORT

- ☐ Asbestos  
☐ Tobacco  
☐ Toxic Tort - DES  
☐ Toxic Tort - Implant  
☐ Toxic Waste  
☐ Other:

### PROFESSIONAL LIABILITY

- ☐ Dental  
☐ Legal  
☐ Medical  
☐ Other Professional:

### CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff  
☐ Debt Collection: Credit Card  
☐ Debt Collection: Other  
  
☐ Employment Dispute:  
Discrimination  
☐ Employment Dispute: Other  
  
☐ Other:

### REAL PROPERTY

- ☐ Ejectment  
☐ Eminent Domain/Condemnation  
☐ Ground Rent  
☐ Landlord/Tenant Dispute  
☐ Mortgage Foreclosure: Residential  
☐ Mortgage Foreclosure: Commercial  
☐ Partition  
☐ Quiet Title  
☐ Other:

### CIVIL APPEALS

- Administrative Agencies  
☐ Board of Assessment  
☐ Board of Elections  
☐ Dept. of Transportation  
☐ Statutory Appeal: Other  
  
☐ Zoning Board  
☐ Other:

### MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration  
☐ Declaratory Judgment  
☐ Mandamus  
☐ Non-Domestic Relations  
Restraining Order  
☐ Quo Warranto  
☐ Replevin  
☐ Other: