

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

TRIPLE S FARMS, LLC,

Plaintiff,

v.

DELAVAL INC., WEST AGRO, INC.,
DELAVAL INTERNATIONAL AB,
DELAVAL HOLDING BV, DELAVAL
HOLDING AB, and TETRA LAVAL
INTERNATIONAL SA,

Defendants.

Case No. 22-cv-309

CLASS ACTION COMPLAINT

Plaintiff Triple S Farms, LLC (“Plaintiff”) brings this action individually and on behalf of all others similarly situated against DeLaval Inc., West Agro, Inc., DeLaval International AB, DeLaval Holding BV, DeLaval Holding AB, and Tetra Laval International SA (“Defendants” or “DeLaval”) and states as follows:

NATURE OF THE ACTION

1. This lawsuit is the second chapter of litigation against DeLaval regarding its robotic or voluntary milking systems (“VMS”), as this lawsuit follows the first chapter on the DeLaval VMS™ Classic (the “Classic”), *Bishop, et al. v. DeLaval Inc., et al.*, Case No. 5:19-cv-06129-SRB. *Bishop* litigated the defectiveness of the first version of the robot—the Classic—which DeLaval released in the United States in 2007. This lawsuit relates to the DeLaval VMS™ V300 (the “V300”), which DeLaval released in the United States in 2018 claiming it was a substantial upgrade to the Classic. Much of the discovery conducted in *Bishop* is directly relevant to the claims asserted below and will be used to show that nearly all of the defects present in the Classic

remained in the V300 and that the international defendants named herein are subject to jurisdiction in this District and liable for the harm caused by the V300 to U.S. dairy farmers.

2. DeLaval designed, manufactured, marketed, sold, distributed, and installed the V300. Like the Classic, the V300 is a robotic milking system purportedly designed to optimize quality milk yield by fully automating the milking process, so dairy producers can remove the manual or human tasks of milking typically required by a conventional milking system (“CMS”).

3. DeLaval uniformly and deceptively, falsely, and misleadingly marketed and represented that the V300 would, among other things, perform three essential functions: (1) wash with a sanitizing solution, fore-strip and dry each lactating teat before milking; (2) completely milk each lactating quarter in a manner that prevents contamination of milk and milking equipment; and (3) post-spray teat disinfectant on each teat after milking. At the same time, DeLaval knowingly concealed from Plaintiff and the proposed Class that the V300 was defective and incapable of successfully performing these functions, including according to industry standards.

4. In reliance on DeLaval’s misrepresentations and concealment, Plaintiff and many other dairy farmers purchased V300 at costs exceeding hundreds of thousands of dollars and expended additional costs to design, modify, retrofit, or build new barns to install the V300, which caused economic harm to Plaintiff and physical harm to its property.

5. After inducing Plaintiff and other dairy farmers to purchase the V300 based on these misrepresentations and concealments, DeLaval delivered a product that was defectively designed, had defects in material, manufacture, and workmanship, failed to conform to their express and implied warranties, and failed to perform as uniformly marketed and represented. Among other defects, the V300 suffers from the defects identified herein.

6. Given the defects concealed from Plaintiff and the Class, the V300 cannot meet the industry standards for producing Grade A milk. Consequently, Plaintiff and others dairy farmers suffered harm in the form of impaired cow health, milk quality, and milk production and, more specifically, elevated bacteria levels and mastitis rates, causing elevated somatic cell counts, decreased milk production, and a host of other harms to both cows and milk quality.

7. Dairy farms like Plaintiff that continue to milk with V300 despite its defectiveness are dependent on DeLaval. As DeLaval provides parts and service for the V300. This dependence is heightened by the fact that dairy cows must be timely milked each day or else they will develop mastitis and other serious health issues or death. Farmers are also dependent on DeLaval because their barns were designed or retrofitted specifically to accommodate the V300. Without additional costs or further economic harm, these barns cannot be used to milk cows by alternative methods. Thus, DeLaval knowingly created a situation where dairy farmers cannot transition to another milking system without additional costs or ongoing harm.

JURISDICTION AND VENUE

8. Jurisdiction and venue are proper in this Court.

9. This Court has jurisdiction over this lawsuit under the Class Action Fairness Act, 28 U.S.C. § 1332, because this is a proposed class action in which: (1) there are at least 100 class members; (2) the combined claims of class members exceed \$5,000,000.00, exclusive of interest, attorneys' fees, and costs; and (3) DeLaval and class members are domiciled in different states.

10. As alleged herein, this Court has personal jurisdiction over each named defendant.

11. Venue is proper pursuant in this District under 28 U.S.C. § 1391(b) because a substantial part of the conduct at issue in this case occurred in this District.

PARTIES

Plaintiff

12. Plaintiff Triple S Farms, LLC (“Plaintiff” or “Triple S”) is a dairy farm located and operating at 24376 343rd Avenue, Belgrade, Minnesota 56312 (“Triple S Farm”).

13. At all times hereinafter mentioned, Robert Scherping (“Scherping”) is the Chief Executive Officer of Triple S Farm, LLC.

14. At all times hereinafter mentioned, Paul Stang, Roger Stang, and Charles Stang (the “Stangs”) were agents, employees, and/or servants of Triple S.

15. The terms “Plaintiff” and “Triple S” includes Triple S Farms, LLC, Scherping, and the Stangs.

Defendants

16. DeLaval Inc. is a Delaware corporation with its principal place of business at 11100 N Congress Ave, Kansas City, Missouri 64153, and is, therefore, “at home” in this District with sufficient minimum contacts in Missouri to render the exercise of jurisdiction by this Court proper and necessary; develops, designs, manufactures, advertises, sells, promotes, services, maintains, repairs, distributes, and installs equipment and systems for milk production and animal husbandry markets, including, but not limited to, voluntary milking systems; and is a wholly owned subsidiary of DeLaval Holding BV.

17. West Agro, Inc. is a Delaware corporation with its principal place of business at 11100 N Congress Ave, Kansas City, Missouri 64153, and is, therefore, “at home” in this District with sufficient minimum contacts in Missouri to render the exercise of jurisdiction by this Court proper and necessary; develops, designs, manufactures, advertises, sells, promotes, services, maintains, repairs, distributes, and installs equipment and systems for milk production and animal

husbandry markets, including, but not limited to, voluntary milking systems; does business under the fictitious name, “DeLaval Manufacturing,” registered in Missouri and from the same address as West Agro, Inc.; and is a wholly owned subsidiary of DeLaval Inc.

18. DeLaval International AB is a company founded under the laws of Sweden with its principal place of business located in Tumba, Sweden; develops, designs, manufactures, advertises, sells, promotes, services, maintains, repairs, distributes, and installs equipment and systems for milk production and animal husbandry markets, including, but not limited to, voluntary milking systems; is registered to do business in the State of Missouri; and is a wholly owned subsidiary of DeLaval Holding BV.

19. On December 7, 2007, DeLaval International AB filed an Application for Certificate of Authority for a Foreign For-Profit Corporation with the Missouri Secretary of State, stating that the purpose of its business in Missouri is as the “[o]wner of inventory at the Missouri physical location of 11100 North Congress Avenue, Kansas City MO 64153.” DeLaval International AB has continuously renewed that application since 2007 and remains registered to do business in Missouri.

20. DeLaval Holding BV is the parent company for DeLaval Inc. and DeLaval International AB and is a company founded under the laws of Netherlands with its principal place of business located in Overijssel, Netherlands. On information and belief, DeLaval Holding BV is a wholly owned subsidiary of DeLaval Holding AB.

21. DeLaval Holding AB is the parent company for DeLaval Holding BV and is a company founded under the laws of Sweden with its principal place of business located in Tumba, Sweden. On information and belief, DeLaval Holding AB is a wholly owned subsidiary of Tetra Laval International SA or Tetra Laval Group.

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