

**UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of  
LEACHCO, INC.

CPSC DOCKET NO. 22-1

Respondent.

**RESPONDENT'S FIRST SET OF INTERROGATORIES TO  
CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to 16 C.F.R. § 1025.32, Respondent Leachco, Inc. ("Leachco") hereby requests that the Consumer Product Safety Commission ("CPSC") answer each of the following interrogatories under oath and in writing within 30 days of service hereof.

**DEFINITIONS AND INSTRUCTIONS**

A. In the following interrogatories:

1. "You," or "your," shall mean the CPSC, and includes the staff and, where applicable, the Commissioners.
2. "Document" shall mean the original and all non-identical copies of all written, printed, typed, graphic, and photographic matter of any kind or nature, and all mechanical or electronic audio and/or visual recordings or transcripts thereof, however produced or reproduced, and all entries in a computer or electronic database (including Twitter and any other form of social media) of any kind, including but not limited to: correspondence, telexes, telegrams, telephone messages, statements, voice mail, electronic mail, and all other computer files or data, claim forms, incident reports, intake forms or histories, summaries or records of telephone conversations, memoranda, records, summaries or records of personal conversations or

interviews, medical records, X-rays, MRIs, CT-scans, ultrasound images, and all other radiologic or radiographic films, invoices, contracts, agreements, orders, books, calendars, diaries, reports, notebooks, photographs, videos (digital or otherwise), slides, charts, notes, plans, drawings, sketches, maps, summaries or records of meetings or conferences, drafts or letters, now or formerly in the possession, custody or control of CPSC, CPSC's attorneys, representatives, employees or agents.

3. "Person" shall mean any natural person, corporation, partnership, unincorporated association, joint venture, trust, estate, public or quasi-public entity, or any other legal entity.

4. "Identify," "state the identity of," "identification," or "describe":

a. When used in reference to an individual, shall mean to state his or her full name, maiden or former names, social security number, present or last known home and business address and telephone numbers, and present or last known occupation, employer and job title or description; or if none of the information is known, then the name, present home and business address and telephone numbers of all individuals who likely or may be able to provide all or part of the information.

b. When used in reference to an organization of any kind, shall mean to state its full name, its state of incorporation (if applicable), the address of its principal place of business and its telephone numbers.

c. When used in reference to a Document, shall mean to state the type of Document, its date, the identity of its author(s) and its recipient(s), any title and/or serial number or file number appearing on the Document, the identity of its present custodian, its present location and a brief description of its subject matter. If any such Document was, but no longer is, in your possession or control or in existence, state whether it (i) is

missing or lost, (ii) has been destroyed, (iii) has been transferred to others, or (iv) has been otherwise disposed of. In lieu of identifying a Document, a copy of the Document can be produced.

5. The term "Complaint" shall mean your Complaint filed against Leachco in the above-captioned matter.

6. The term "Podster" shall mean the products referred to in paragraph 7 and 9 of your Complaint.

7. The term "Infant Lounger Product(s)" shall mean any product marketed, intended, or designed for infant lounging, including but not limited to the Boppy Pillow, and/or any product similar to the Podster.

8. The term "Infant Sleep Product(s)" shall mean any product marketed, intended, or designed for infant sleep.

B. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

C. These interrogatories shall be deemed continuing to the extent permitted by 16 C.F.R. § 1025.31(f) so as to require prompt further responses if additional information or Documents are obtained between the time the responses were served and the time of trial.

D. If any privilege is claimed with respect to any answer or Document, please state with respect to each such claim of privilege the identity of the item with respect to which the privilege is claimed with sufficient particularity to enable the matter to be brought before the Court for a ruling on such a claim, and state the alleged ground of privilege and the complete factual basis for such a claim.

E. Pursuant to 16 C.F.R. § 1025.31, Complaint Counsel are under a continuing duty to supplement its responses to these discovery requests without further request from Respondents. Where Complaint Counsel have responded to a discovery request with a response that was complete when made, Complaint Counsel is under a duty to supplement that response to include information later obtained.

### **INTERROGATORIES**

INTERROGATORY NO. 1. Identify each Person with knowledge of your efforts to respond to these Interrogatories and Requests for Production of Documents. For each Person identified, indicate the time period of his or her involvement and describe the Person's responsibility, role and contribution.

**RESPONSE:**

INTERROGATORY NO. 2. Identify any Person who was a witness to or has knowledge of the facts, circumstances and events that are related to the relief requested in the Complaint, or who otherwise has knowledge relevant to the issues in this case and identify any Documents concerning, involving or in any way related to your response.

**RESPONSE:**

INTERROGATORY NO. 3. Describe in complete detail each defect in the design, manufacture, or materials of the Podster or any of its, that you contend support the relief requested in the Complaint, including without limitation in your description, the exact nature of the defect, the

parts or components defective, and the hazard or risk created by each such defect and identify any Documents concerning, involving or in any way related to your response.

**RESPONSE:**

INTERROGATORY NO. 4. Describe in complete detail each alternative design or modification which you contend was possible to reduce or eliminate the defect and/or hazard you contend existed in the Podster, including without limitation in your description, whether or not each design or modification is commercially available, identification of any product using the commercially available alternative design, whether or not each design or modification has been inspected, tested or otherwise analyzed by you, and if so, describe in complete detail the nature of any inspection, testing or analysis, and identify any Document concerning, involving or in any way related to your response.

**RESPONSE:**

INTERROGATORY NO. 5. Describe in complete detail any warning or instruction you contend Leachco provided improperly or failed to provide in connection with the Podster, including without limitation in your description, the manner in which you contend any warning or instruction provided by Leachco was improper, the content of any warning or instruction you contend was proper or required, the manner in which you contend that warning or instruction should have been provided, whether any commercially available alternative product uses the warning or instruction you contend was proper or required, the identity of any commercially

available alternative product that uses the warning or instruction you contend was proper or required, and identify any Documents concerning, involving or in any way related to your response.

**RESPONSE:**

INTERROGATORY NO. 6. Identify each Person whom you expect to call as an expert witness at any hearing or trial in this matter, and describe in complete detail the subject matter on which the expert is expected to testify, including without limitation in your description:

- a. A complete statement of all opinions the witness will express and the basis and reasons for them;
- b. The facts or data considered by the witness in forming them;
- c. Any exhibits that will be used to summarize or support them;
- d. The witness's qualifications, including a list of all publications authored in the previous 10 years;
- e. A list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
- f. A statement of the compensation to be paid for the study and testimony in the case.

**RESPONSE:**

INTERROGATORY NO. 7. If you contend that the Podster failed to comply with the provisions of any mandatory or voluntary standard in their design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instruction for the use of, or warnings concerning the use of, the Podster or any component parts (including without limitation any packaging, instructions or other Documents accompanying the Podster at the time of sale), describe such contention in complete detail, including without limitation in your description the identity of the mandatory or voluntary standard which you contend applies, each instance in which you contend the Podster fails to comply, each section of the mandatory or voluntary standard with which you contend the Podster fails to comply, and each change to the Podster that you contend is required so that the Podster would comply with any such statute, code, regulation or industry, trade or voluntary standard and identify any Documents concerning, involving or in any way related to your response.

**RESPONSE:**

INTERROGATORY NO. 8. Describe in complete detail any incidents involving injury or death related to the Podster of which you are aware, including without limitation in your response:

- a. Identification of any Person involved in the incident (by name and contact information);
- b. Identification of the Person injured if not the consumer;
- c. The location of the incident;
- d. The date of the incident; and
- e. A description of the nature of any injury.

**RESPONSE:**

INTERROGATORY NO. 9. Describe in complete detail each incident involving injury or death related to any Infant Lounger Product that you intend to rely on in this case, or that you contend supports the allegations in your Complaint, including without limitation in your response:

- a. Identification of any Person involved in the incident (by name and contact information);
- b. Identification of the Person injured if not the consumer;
- c. The location of the incident;
- d. The date of the incident;
- e. A description of the nature of any injury; and
- f. Identification of the Infant Lounger Product involved.

**RESPONSE:**

INTERROGATORY NO. 10. Describe in complete detail the basis for the allegations in paragraphs 35-37 of the Complaint that the Podster's defects have led to the deaths of at least two infants, including without limitation in your response:

- a. Identification of any incident in which the infant died (by consumer name, contact information date and location);
- b. Identification of the parents and caregivers at the time of the death;
- c. A description of the nature of the injury;



d. The basis for your statement that “[t]he Podster’s defects [] led” to each death;  
and

d. Whether or not you contend that the consumer followed Leachco’s instructions  
for using the Podster.

**RESPONSE:**

INTERROGATORY NO. 11. Describe in complete detail the basis for the allegations in  
paragraph 20 of the Complaint, including subsections a. through e.

**RESPONSE:**

INTERROGATORY NO. 12. Describe in complete detail the basis for the allegations in  
paragraph 24 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 13. Describe in complete detail the basis for the allegations in  
paragraph 25 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 14. Describe in complete detail the basis for the allegations in paragraph 26 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 15. Describe in complete detail the basis for the allegations in paragraph 27 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 16. Describe in complete detail the basis for the allegations in paragraph 28 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 17. Describe in complete detail the basis for the allegations in paragraphs 29 and 30 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 18. Describe in complete detail the basis for the allegations in paragraphs 31 and 32 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 19. Describe in complete detail the basis for the allegations in paragraphs 39 and 40 of the Complaint.

**RESPONSE:**

INTERROGATORY NO. 20. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, relating to any defect in the Podster, including in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 21. Identify any analysis or testing performed by or on behalf of the CPSC (or upon which the CPSC relies or has relied) relating to any defect in any Infant Lounger Product that you contend supports the allegations in your Complaint, and include in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 22. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, relating to the effectiveness of the Podster's

warnings, including in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 23. Identify any analysis or testing performed by or on behalf of the CPSC (or upon which the CPSC relies or has relied) relating to the effectiveness of warnings on other Infant Lounger Products that you contend supports the allegations in your Complaint, and include in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 24. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, relating to whether the Podster creates a substantial risk of injury to the public, by its use or misuse, including in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 25. Identify any analysis or testing performed by or on behalf of the CPSC (or upon which the CPSC relies or has relied) relating to whether any Infant Lounger Product creates a substantial risk of injury to the public that you contend supports the allegations

in your Complaint, and include in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 26. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, relating to whether the Podster constitutes a substantial product hazard, including in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 27. Identify any analysis or testing performed by or on behalf of the CPSC (or upon which the CPSC relies or has relied) relating to whether any Infant Lounger Product constitutes a substantial product hazard that you contend supports the allegations in your Complaint, and include in your response the identity of any persons who participated in said analysis or testing.

**RESPONSE:**

INTERROGATORY NO. 28. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, comparing the number or frequency of

incidents, injuries, or deaths related to the Podster to the number or frequency of incidents, injuries, or deaths related to any other Infant Lounger Product.

**RESPONSE:**

INTERROGATORY NO. 29. Identify any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, comparing any incidents, injuries, or deaths allegedly caused by the Podster to any incidents, injuries or deaths allegedly caused by other Infant Lounger Products.

**RESPONSE:**

INTERROGATORY NO. 30. For each allegation concerning an incident, injury, or death alleged in the Complaint or that you intend to introduce at the trial or hearing in this matter (whether or not alleged in paragraphs 35-37 of the Complaint, or otherwise) provide for each such incident the following information: (i) the name, address, and telephone number of the caregiver(s) and/or guardians involved; (ii) the name, address, and telephone number of the child inhabiting the Podster at the time of the alleged incident and his or her parent(s) or guardian(s); (iii) the date on which the incident allegedly occurred; (iv) a complete description of any injuries allegedly incurred as a result of the incident, including any medical records in your possession; (v) how and when you became aware of the incident; and (vi) identify whether or not the incident involved a Podster, or another Infant Lounger Product (and if so, identify the product).

**RESPONSE:**

INTERROGATORY NO. 31. For each allegation concerning an incident, injury, or death related to an Infant Lounger Product that you allege to have occurred and you intend to rely upon in this case, and that you have not already identified in response to Interrogatory No. 26, provide for each incident the following information: (i) the name, address, and telephone number of the adult caregiver operating the Infant Lounger product at the time of the alleged incident; (ii) the name, address, and telephone number of the child inhabiting the Infant Lounger Product at the time of the alleged incident and his or her parent(s) or guardian(s); (iii) the date on which the incident allegedly occurred; (iv) a complete description of any injuries allegedly incurred as a result of the incident, including any medical records in your possession; (v) how and when you became aware of the incident; and (vi) identify whether or not the wheel detachment involved a Podster, or another product (and if so, identify the product).

**RESPONSE:**

INTERROGATORY NO. 32. State whether you contend adults will continue to misuse the Podster regardless of any warnings on the Podster? If your answer is "yes," please describe in complete detail the basis for your answer.

**RESPONSE:**

INTERROGATORY NO. 33. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, with respect to use or misuse of Infant Lounger Products.

**RESPONSE:**

INTERROGATORY NO. 34. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, with respect to the risk of injury to children using Infant Lounger Products, including without limitation any comparison of risk of injury to a child from the Podster when compared to other Infant Lounger Products, or the risk of injury to a child from any Infant Lounger Product as compared to any Infant Sleep Product.

**RESPONSE:**

INTERROGATORY NO. 35. Identify any analysis or testing performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, with respect to whether changes in any of the following would remedy or reduce the alleged hazard posed by the Podster:

- (a) Design
- (b) Warnings
- (c) Construction
- (d) Instructions
- (e) Packaging
- (f) Advertising and marketing



(g) Public safety education campaigns.

**RESPONSE:**

INTERROGATORY NO. 36. Describe in complete detail the purchase, or acquisition by other means, of Podsters by any person at the CPSC, including without limitation, the identity of the person making the purchase or acquisition, the date of the purchase or acquisition, the identity of the person from whom the Podsters were purchased or acquired, the price of the Podsters purchased (if a purchase was made), and whether the purchase or acquisition was for governmental or personal purposes.

**RESPONSE:**

INTERROGATORY NO. 37. Describe in complete detail any communications between the CPSC and any persons (or their parents, guardians and/or attorneys), who alleged that they were injured by a Podster.

**RESPONSE:**

INTERROGATORY NO. 38. Describe in complete detail any communications between the CPSC and any persons (or their parents, guardians and/or attorneys) related to any incident, injury or death related to an Infant Lounger Product upon which the CPSC relies or has relied for its allegations in this case.

**RESPONSE:**

Dated: March 14, 2022

**CROWELL & MORING LLP**

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*Attorneys for Leachco, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 14, 2022, a true and correct copy of Respondent's First Set of Interrogatories was served by e-mail and first class U.S. Mail, postage prepaid, on the following:

Alberta Mills  
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*/s/ Cheryl A. Falvey* \_\_\_\_\_  
Cheryl A. Falvey