

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

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In the Matter of )  
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BRITAX CHILD SAFETY, INC. ) CPSC DOCKET NO.: 18-1  
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Respondent. )  

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TO: Roger Malinowski  
2291 N. Broadview Place  
Boise, ID 83702-1288

**SUBPOENA**

Complaint Counsel in the above-captioned matter (“Complaint Counsel”) is conducting administrative litigation seeking an order determining that various models of single and double occupant 3-wheeled jogging strollers designed with a dropout fork assembly and quick release mechanism, imported and distributed by B.O.B. Trailers, Inc. (“B.O.B.”) and Britax Child Safety, Inc. (“Britax”), present a substantial product hazard. Complaint Counsel believes that you, as co-founder and former CEO of B.O.B., possess information or have knowledge that will assist in that determination.

The U.S. Consumer Product Safety Commission has authorized the issuance of this Subpoena in this matter pursuant to Sections 15 and 27(b)(3) & (4) of the Consumer Product Safety Act, 15 U.S.C. §§ 2064 and 2076(b) (3) & (4), and 16 C.F.R. part 1025. **The Subpoena requires that you produce documents and appear for a deposition.**

## **I. GENERAL INSTRUCTIONS**

A. The Commission's rules for adjudications govern this Subpoena. 16 C.F.R. § 1025.38. Title 16 of the Code of Federal Regulations, Section 1025.38 sets forth procedures for motions to quash or modify the terms of this Subpoena.

B. This Subpoena shall be answered by you.

C. The public disclosure of any information provided to the Commission under this Subpoena shall be governed by the Freedom of Information Act, 5 U.S.C. § 552, the Commission's regulations under that Act, 16 C.F.R. part 1015, and the April 23, 2018, Protective Order entered in this matter, available at <https://www.cpsc.gov/Recalls/Recall-Lawsuits/Adjudicative-Proceedings>. If you wish to request confidential treatment for any information provided, you should submit a request for such treatment with responsive documents. Questions about this Subpoena should be directed to Gregory M. Reyes, Trial Attorney, U.S. Consumer Product Safety Commission, Office of the General Counsel, Division of Compliance, Suite 710-F, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7220; e-mail: greyes@cpsc.gov.

D. Each document production request seeks production of all documents described herein, and any attachments thereto, in your possession, custody, or control, or in the possession, custody, or control of any of your attorneys, employees, agents, or representatives, and all documents and any attachments that you or any of your attorneys, employees, agents, or representatives have the legal right to obtain, or have the ability to obtain from sources under your or their control.

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

construed to mean without limitation. The words “any” and “all” shall be construed to make the request inclusive rather than exclusive.

F. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, to make all definitions and discovery requests inclusive rather than exclusive. The singular shall include the plural and vice versa.

G. To the extent that you withheld, based upon a claim of privilege, any information or documents (including electronic records) that would have been responsive to any information or document production requests contained in the Subpoena, provide the following information:

1. For any document withheld, specify the privilege claimed and the factual basis you contend supports the assertion of the privilege, and identify the document as follows: (a) state the date, nature, and subject matter of the document; (b) identify each author of the document; (c) identify each preparer of the document; (d) identify each person who is an addressee or an intended recipient of the document; (e) identify each person from whom the document was received; (f) state the present location of the document and all copies thereof; (g) identify each person who has, or ever had, possession, custody, or control of the document or any copy thereof; (h) state the number of pages, attachments, appendices, and exhibits; and (i) provide all further information concerning the document and the circumstances upon which the claim of privilege is asserted.

2. Regarding any communication withheld, identify the persons or entities among whom the communication took place, the date of the communication, and the subject.

H. In an affidavit accompanying the response to the Subpoena, you must include a statement, signed under oath or affirmation, indicating that a diligent search of all files, records, and databases for responsive information and documents has been made, that the information

contained in the responses to the questions is complete and accurate, and that you have produced true copies of all the documents requested in the Subpoena.

I. Submit your response to the Subpoena to Gregory M. Reyes, Trial Attorney, U.S. Consumer Product Safety Commission, Office of the General Counsel, Division of Compliance, Suite 710-F, 4330 East West Highway, Bethesda, MD 20814. Where possible, documents should be provided electronically in native file format.

J. Your obligation to respond to the Subpoena is a continuing one. As additional information becomes available to you that is responsive to the Subpoena, you must submit that information immediately.

## **II. DEFINITIONS**

For the purposes of the Subpoena, the following definitions apply:

1. “Britax” means Britax Child Safety, Inc., a South Carolina corporation, with its principal place of business located at 4140 Pleasant Road, Fort Mill, South Carolina 29708, including any agent, subsidiary, affiliate, successor, or predecessor entity, as well as all past and present officers, directors, representatives, agents, and employees of Britax Child Safety, Inc.

2. “B.O.B.” means B.O.B. Trailers, Inc., formerly a California corporation, which was merged with and into Britax in December 2011, with its most recent principal place of business located at 5475 Gage Street, Boise, Idaho 83706, including any agent, subsidiary, affiliate, successor, or predecessor entity, as well as all past and present officers, directors, representatives, agents, and employees of B.O.B. Trailers, Inc.

3. “Person” means any natural person, entity, group, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority,

commission, officer, or other business or legal entity, whether private or governmental, and whether foreign or domestic.

4. “Subject Products” means single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism, imported and distributed beginning in 1997, including without limitation: Revolution, Sport Utility Stroller, Ironman, SUS Duallie, Ironman Duallie, Revolution SE, Revolution CE, Stroller Strides, Revolution SE Duallie, Stroller Strides Duallie, Revolution Pro, Revolution Pro Duallie, Revolution Flex, Revolution SE Plus, Revolution Flex Duallie, and Revolution SE Duallie Plus model strollers. Subject Products include those products which are defined in the Complaint filed in *In the Matter of Britax Child Safety, Inc.*, CPSC Docket No. 18-1, which is available at <https://www.cpsc.gov/Recalls/Recall-Lawsuits/Adjudicative-Proceedings>.

5. “Documents” mean the original and any nonidentical copy of any written, printed, reproduced, graphic, photographic, electronic, audio, visual, or computer records, however produced or reproduced, of any kind or description, whether prepared by you or by any other person, that is in your possession, custody, or control, including, but not limited to, the following: electronic mail; electronically stored information; papers; notes; books; letters; telecopies; facsimiles; photographs; motion pictures; videotapes; video disks; audio recordings; drawings; schematics; manuals; blueprints; intra- and interoffice communications; transcripts; minutes; reports; audio recordings; affidavits; statements; pleadings; summaries; indices; analyses; evaluations; agreements; calendars; appointment books; diaries; telephone logs; tabulations; charts; graphs; data sheets; computer tapes, disks, cards, printouts, and programs; microfilm; microfiche; social media communications, including, but not limited to, information posted on or transmitted through social networking platforms (*e.g.*, Facebook), digital file-

sharing services (*e.g.*, Flickr), blogs and microblogs (*e.g.*, Twitter); instant messages, customer reviews and/or comments posted on the B.O.B. or Britax's website(s) relating to the Subject Products; all accounts, entries, ledgers, budgets or other information found in Quickbook ledgers and entries and all drafts, alterations, and/or amendments of, or to, any of the foregoing. The term includes all drafts of a document and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term also includes information stored in or accessible through computer or other information retrieval systems (including computer archives or backup systems), together with instructions and all other materials necessary to use or interpret such data compilations.

6. "Communication(s)" shall mean any transfer of information, ideas, opinions, or thoughts by any means, at any time or place, under any circumstances, including, but not limited to, any transfer of information or data in a document, or from one location to another, by electrical, electronic, digital, or other means.

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### **III. SUBPOENA AD TESTIFICANDUM AND DUCES TECUM**

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You are also directed to produce at the Commission's headquarters at 4330 East West Highway, Bethesda, MD 20814 within ten (10) days of service of the subpoena and prior to

testifying at the deposition above, copies of all records in your possession, custody, or control relating to:

- 1) Any and all Documents and Communications relating to reports of incidents, including incidents involving injuries, related to front wheel detachments on the Subject Products.
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- 4) Any and all Documents and Communications relating to any design changes or proposed design changes and prototypes for the quick release mechanism and/or for the front wheel assembly on the Subject Products.
- 5) Any and all Documents and Communications relating to the *ASTM F833 Standard Consumer Safety Performance Specification for Carriages and Strollers*.

BY ORDER OF THE COMMISSION

The undersigned, an authorized official of the U.S. Consumer Product Safety Commission, has hereto set his hand and caused the seal of the Commission to be affixed at Bethesda, MD, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Alberta E. Mills  
Secretary  
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- 3) Any and all Documents and Communications relating to the design of the quick release mechanism and/or the design of the front wheel assembly on the Subject Products.
- 4) Any and all Documents and Communications relating to any design changes or proposed design changes and prototypes for the quick release mechanism and/or for the front wheel assembly on the Subject Products.
- 5) Any and all Documents and Communications relating to the *ASTM F833 Standard Consumer Safety Performance Specification for Carriages and Strollers*.

BY ORDER OF THE COMMISSION

The undersigned, an authorized official of the U.S. Consumer Product Safety Commission, has hereto set his hand and caused the seal of the Commission to be affixed at Bethesda, MD, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Alberta E. Mills  
Secretary  
U.S. Consumer Product Safety Commission