

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

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In the Matter of	)	
	)	
LEACHCO, INC.	)	CPSC DOCKET NO. 22-1
	)	
	)	Hon. Michael G. Young
	)	Presiding Officer
Respondent.	)	
_____	)	

**COMPLAINT COUNSEL’S OFFER OF PROOF REGARDING  
THE EXCLUDED EXPERT TESTIMONY OF UMAKANTH KATWA, M.B.B.S., M.D.**

Pursuant to 16 C.F.R. § 1025.43(f), Complaint Counsel respectfully submits an Offer of Proof regarding the Expert Testimony of Umakanth Katwa, M.B.B.S., M.D., admitted into evidence during Complaint Counsel’s August 9, 2023 examination of Dr. Katwa as CCX-3, subject to this Court’s August 2, 2023 Order Granting In Part and Denying In Part Respondent’s Motion to Exclude Expert Testimony (“August 2 Order”). The August 2 Order specified that the portions of Dr. Katwa’s testimony “regarding adequacy of the Podster’s warnings” would be excluded from evidence, as well as Dr. Katwa’s testimony regarding “Whether the Podster ‘acts like’ an inclined sleeper,” “Whether the Podster ‘facilitates flexion on the head and trunk of infants,’” “Whether an infant is ‘likely to get entrapped’ if it rolls,” and “marketing disinformation.” *Id.* at 5-6. Dr. Katwa’s full testimony contains opinions relevant to assessing the risk of injury created by the Podster’s design as well as areas of consumer behavior and infant movement in the product that contribute to the existence of a design defect in the Podster. *See* 16 C.F.R. § 1115.4. The excluded topics are ones that Dr. Katwa is qualified to provide testimony on, based on his qualifications as an expert witness.

Pursuant to the Commission's Rules of Practice that govern this proceeding:

When an objection to proffered testimony or documentary evidence is sustained, the sponsoring party may make a specific offer, either in writing or orally, of what the party expects to prove by the testimony of the document. . . . Written offers of proof or of rebuttal, adequately marked for identification shall accompany the record and be available for consideration by any reviewing authority.

16 C.F.R. § 1025.43(f).

Thus, pursuant to 16 C.F.R. § 1025.43(f), Complaint Counsel submits this Offer of Proof so that the entirety of CCX-3, the Expert Testimony of Umakanth Katwa, M.B.B.S., M.D., "shall accompany the record and be available for consideration by any reviewing authority" without any excluded testimony.

Dated this 9th day of August, 2023

Respectfully submitted,

*/s/ Thomas J. Mendel*

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Gregory M. Reyes, Supervisory Attorney  
Thomas J. Mendel, Trial Attorney  
Brett Ruff, Trial Attorney  
Michael J. Rogal, Trial Attorney

Division of Enforcement and Litigation  
Office of Compliance and Field Operations  
U.S. Consumer Product Safety Commission  
Bethesda, MD 20814  
Tel: (301) 504-7220

Complaint Counsel for  
U.S. Consumer Product Safety Commission

**CERTIFICATE OF SERVICE**

I hereby certify that on August 9, 2023, I served Complaint Counsel's Offer Of Proof Regarding The Excluded Expert Testimony Umakanth Katwa, M.B.B.S., M.D. on all parties and participants of record in these proceedings as follows:

*By email to the Secretary:*

Alberta E. Mills  
Secretary  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814  
Email: AMills@cpsc.gov

*By email to the Presiding Officer:*

Judge Michael G. Young  
Presiding Officer and Administrative Law Judge  
Federal Mine Safety and Health Review Commission  
1331 Pennsylvania Ave., N.W., Ste. 520N  
Washington, DC 20004-1710  
Email: myoung@fmshrc.gov  
cjannace@fmshrc.gov

*By email to Counsel for Respondent:*

Oliver J. Dunford  
Pacific Legal Foundation  
4440 PGA Blvd., Suite 307  
Palm Beach Gardens, FL 33410  
Email: ODunford@pacificlegal.org

John F. Kerkhoff  
Frank D. Garrison  
Jessica L. Thompson  
Pacific Legal Foundation  
3100 Clarendon Boulevard, Suite 610  
Arlington, VA 22201  
Email: JKerkhoff@pacificlegal.org  
FGarrison@pacificlegal.org  
JLThompson@pacificlegal.org

*/s/ Thomas J. Mendel*

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Thomas J. Mendel  
Complaint Counsel for  
U.S. Consumer Product Safety Commission