

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

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

Pursuant to 16 C.F.R. § 1025.32, Respondent Britax Child Safety, Inc. (“Britax ”) 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 Second Amended Complaint filed against Britax in the above-captioned matter.

6. “Subject Products” shall mean the products referred to in paragraph 1 of your Complaint.

7. The term “Stroller” shall mean a wheeled vehicle for the transport of infants or children generally in a sitting-up or semi-reclined position. The motive power is supplied by a person moving at a walking rate while pushing on a handle attached to the Stroller. A Stroller generally is capable of being folded for storage. Strollers normally are used for children from infancy to 36 months of age.

8. The term “Jogging Stroller” shall mean a Stroller intended to be used for children at a jogging rate (run at a steady slow trot).

9. The term “Quick Release” (“QR”) shall mean a lever-actuated cam mechanism and related components that connect and retain a wheel in a fork assembly.

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.

INTERROGATORIES

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

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.

INTERROGATORY NO. 3. Describe in complete detail each defect in the design, manufacture, or materials of the Subject Products or any of their component parts, 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.

INTERROGATORY NO. 4. If you contend that the Subject Products are defective, describe in complete detail each alternative design or modification which you contend was possible to reduce or eliminate the hazard, 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.

INTERROGATORY NO. 5. Describe in complete detail any warning or instruction you contend Britax provided improperly or failed to provide in connection with the Subject Products, including without limitation in your description, the manner in which you contend any warning or instruction provided by Britax 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.

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.

INTERROGATORY NO. 7. If you contend that the Subject Products fail 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 Subject Products or any component parts (including without limitation any packaging, manual or other Documents accompanying the Subject Products 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 Subject Products fail to comply, each section of the mandatory or voluntary standard with which you contend the Subject Products fail to comply, and each change to the Subject Products that you contend is required so that the Subject Products 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.

INTERROGATORY NO. 8. Describe in complete detail any incidents involving the allegation that a front wheel suddenly detached from the front fork assembly during use of (i) a Subject Product; (ii) a stroller utilizing a dropout fork assembly and QR mechanism; and (iii) any other product (e.g., a bicycle) utilizing a dropout fork assembly and QR mechanism, 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.

INTERROGATORY NO. 9. Describe in complete detail the basis for the allegations in paragraph 24 of the Complaint.

INTERROGATORY NO. 10. Describe in complete detail the basis for the allegations in paragraph 25 of the Complaint.

INTERROGATORY NO. 11. Describe in complete detail the basis for the allegations in paragraph 26 of the Complaint.

INTERROGATORY NO. 12. Describe in complete detail the basis for the allegations in paragraph 27 of the Complaint.

INTERROGATORY NO. 13. Describe in complete detail the basis for the allegations in paragraph 28 of the Complaint.

INTERROGATORY NO. 14. Describe in complete detail the basis for the allegations in paragraph 29 of the Complaint.

INTERROGATORY NO. 15. Describe in complete detail the basis for the allegations in paragraph 30 of the Complaint.

INTERROGATORY NO. 16. Describe in complete detail the basis for the allegations in paragraph 32 of the Complaint..

INTERROGATORY NO. 17. Describe in complete detail the basis for the allegations in paragraph 34 of the Complaint.

INTERROGATORY NO. 18. Describe in complete detail the basis for the allegations in paragraph 35 of the Complaint.

INTERROGATORY NO. 19. Describe in complete detail the basis for the allegations in paragraph 36 of the Complaint.

INTERROGATORY NO. 20. Describe in complete detail the basis for the allegations in paragraphs 37, 38 and 39 of the Complaint that “consumers,” “children” and “adults” have sustained injuries, when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use”, including without limitation in your response:

- a. Identification of any incident in which consumers, children and adults sustained injury (by consumer name, contact information date and location);
- b. Identification of the person injured if not the consumer;
- c. A description of the nature of the injury; and
- d. Whether or not you contend that the consumer followed Britax’s instructions for attaching the front wheel and engaging the QR for the Subject Product.

INTERROGATORY NO. 21. Describe in complete detail the basis for the allegations in paragraph 41 of the Complaint.

INTERROGATORY NO. 22. Describe in complete detail the basis for the allegations in paragraph 42 of the Complaint.

INTERROGATORY NO. 23. Identify any persons who participated in 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 Subject Products.

INTERROGATORY NO. 24. Identify any persons who participated in 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 Subject Product’s warnings.

INTERROGATORY NO. 25. Identify any persons who participated in 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 Subject Products create a substantial risk of injury to the public.

INTERROGATORY NO. 26. Identify any persons who participated in 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 Subject Products constitute a substantial product hazard.

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, comparing the number or frequency of wheel detachments in the Subject Products to the number or frequency of wheel detachments of any other products containing QRs.

INTERROGATORY NO. 28. Identify any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, comparing the injuries allegedly caused by wheel detachments in the Subject Products to injuries resulting from wheel detachments of any other products containing QRs.

INTERROGATORY NO. 29. For each allegation concerning an incident of wheel detachment alleged in the Complaint or that you intend to introduce at the trial or hearing in this matter (whether or not alleged in paragraphs 37-40 of the Complaint, or otherwise) provide for each such incident the following information: (i) the name, address, and telephone number of the person who secured the QR; (ii) the name, address, and telephone number of the person operating the stroller at the time of the alleged incident; (iii) the name, address, and telephone number of the child inhabiting the Stroller at the time of the alleged incident and his or her parent(s) or guardian(s); (iv) the date on which the incident allegedly occurred; (v) a complete description of any injuries allegedly incurred as a result of the incident, including any medical records in your possession; (vi) how and when you became aware of the incident; and (vii) identify whether or not the wheel detachment involved a Subject Product (and if so, which Subject Product), or another product (and if so, identify the product).

INTERROGATORY NO. 30. For each allegation concerning an incident of wheel detachment in a Jogging Stroller, or any other product containing a QR, that you allege to have occurred and that you have not already identified in response to Interrogatory No. 29, provide for each incident the following information: (i) the name, address, and telephone number of the adult who secured the QR; (ii) the name, address, and telephone number of the adult operating the product at the time of the alleged incident; (iii) the name, address, and telephone number of the child inhabiting the Stroller at the time of the alleged incident and his or her parent(s) or guardian(s); (iv) the date on which the incident allegedly occurred; (v) a complete description of any injuries allegedly incurred as a result of the incident, including any medical records in your possession; (vi) how and when you became aware of the incident; and (vii) identify whether or not the wheel detachment involved a Subject Product (and if so, which Subject Product), or another product (and if so, identify the product).

INTERROGATORY NO. 31. Describe in complete detail the basis for the allegation in paragraph 56 of the Complaint that “[a]ll warnings on the Subject Products are inadequate and defective because the warnings do not and cannot communicate effectively to consumers, including parents and caregivers, the hazard associated with the Subject Products,” including without limitation whether you contend that parents and caregivers either do not read the warnings accompanying the Subject Products or do not comprehend the warnings in any specific respect.

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

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 adult use of QR levers in any products.

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 persons operating all products incorporating a QR lever, including without limitation any comparison of risk of injury to a bicycle rider compared to an adult operating a Stroller, or the risk of injury to a child inhabiting a Stroller with a QR as compared to a child in a bike trailer attached to a bicycle with a QR or the risk of injury to a child riding in a child seat on a bicycle attached to a bicycle with a QR.

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 Subject Products:

- (a) Design
- (b) Warnings
- (c) Instructions
- (d) Packaging
- (e) Advertising and marketing
- (f) Public safety education campaigns.

INTERROGATORY NO. 36. Identify any person at the CPSC who subscribed to receive updates and promotions from Britax, or who provided their email address to Britax either on the website or any social media pages or accounts, or who followed any Britax, or related social media accounts, in order to receive updates and promotions from Britax.

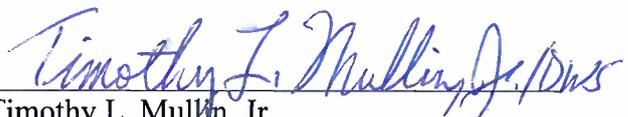
INTERROGATORY NO. 37. Describe in complete detail the purchase, or acquisition by other means, of Subject Products by any person at the CPSC, including without limitation, the identity of the person making the purchase or acquisition, the date of the purchase or acquisition, the identity of the person from whom the Subject Products were purchased or acquired, the price of the Subject Products purchased (if a purchase was made), and whether the purchase or acquisition was for governmental or personal purposes.

INTERROGATORY NO. 38. 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 wheel detachment in a Jogging Stroller equipped with a QR, including without limitation alleged injuries involving the Subject Products.

INTERROGATORY NO. 39. Describe in complete detail the basis for any response to Respondent's Requests for Admission that is not an unqualified admission of the request.

INTERROGATORY NO. 40. Identify each person whom you expect to call as a witness at the hearing or trial in this matter, state the subject matter on which the witness is expected to testify, and state the substance of the facts as to which the witness is expected to testify.

Dated: March 20, 2018


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Attorneys for Respondent,
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CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2018, a true and correct copy of Respondent's First Set of Interrogatories to Consumer Product Safety Commission was served first class, postage prepaid, U.S. Mail on the Secretary of the U.S. Consumer Product Safety Commission, and all parties and participants of record in these proceeding in the following manner:

Original and three copies by U.S. Mail, and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission, Alberta Mills:

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

One copy by U.S. Mail to the Presiding Officer:

Presiding Officer
c/o Alberta Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

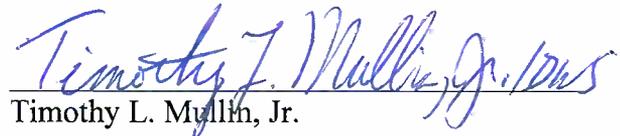
One copy by U.S. Mail and one copy by electronic mail to Complaint Counsel:

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