

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

**COMPLAINT COUNSEL’S MOTION FOR PROTECTIVE ORDER AS TO CERTAIN
OF LEACHCO, INC.’S FIRST SET OF REQUESTS FOR ADMISSION, LEACHCO,
INC.’S SECOND SET OF REQUESTS FOR ADMISSION AND LEACHCO, INC.’S
INTERROGATORY NO. 40**

Pursuant to 16 C.F.R. §§ 1025.23, 1025.31(d) and (i), 1025.32 and 1025.34, Complaint Counsel respectfully moves this Court for a protective order for certain of Respondent Leachco, Inc.’s (“Leachco”) First Set of Requests for Admission, Second Set of Requests for Admission, (collectively, “RFAs”) as well as Leachco’s Interrogatory No. 40, and attaches its Memorandum in Support. For the reasons detailed in the attached Memorandum, there is good cause to protect Complaint Counsel against certain of Leachco’s requests for admission because they subject Complaint Counsel to “annoyance . . . oppression, or undue burden or expense.” 16 C.F.R. § 1025.31(d). Complaint Counsel requests that “the discovery shall not be had.” 16 C.F.R. § 1025.31(d)(1). Complaint Counsel has carefully examined the total of **363** requests for admission in Leachco’s RFAs and will separately respond to 80 of Leachco’s RFAs. Complaint Counsel is thus seeking a protective order as to 283 RFAs.

There is good cause for a protective order for five broad categories of improper requests for admission:

- (1) RFAs that relate to a legal question;¹
- (2) RFAs that seek information related to Leachco's own business practices;²
- (3) RFAs that relate to and/or seek expert opinion or expert testimony;³
- (4) RFAs that pose improper hypotheticals;⁴ and,
- (5) RFAs that call for privileged information or seek information not yet required under this Court's scheduling Order.⁵

There also is good cause for a protective order for Interrogatory No. 40, which incorporates Leachco's RFAs by reference.

Complaint Counsel attempted to resolve this motion without court intervention but the parties were unable to reach an agreement.

Accordingly, Complaint Counsel respectfully requests that the Presiding Officer issue a protective order as to Leachco's Request for Admission Nos. RFA Nos. 3, 8-99, 102-123, 130-184, 212, 232-233, 236-278, 285-291, 293-296, 302, 305, 307-321, 325-363 and Interrogatory No. 40, and direct that the "discovery shall not be had."

Complaint Counsel has included with this Motion a proposed Order.

¹ RFA Nos. 3, 8-24, 92-99, 136-142, 149-156, 236-239, 249-252, 274-278, 296, 305, 325-358, 360-361.

² RFA Nos. 110-115, 212, 293.

³ RFA Nos. 25-91, 102-109, 116-123, 130-135, 143-148, 157-184, 240-245, 253-264, 266-273, 285-291, 295, 307-321, 359, 362-363.

⁴ RFA Nos. 232-233, 294.

⁵ RFA Nos. 246-48, 302.

Dated this 16th day of February, 2023

Respectfully submitted,



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

Division of Enforcement and Litigation
Office of Compliance and Field Operations
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Complaint Counsel for
U.S. Consumer Product Safety Commission

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[PROPOSED] ORDER ON COMPLAINT COUNSEL’S MOTION FOR PROTECTIVE ORDER AS TO CERTAIN OF LEACHCO, INC.’S FIRST SET OF REQUESTS FOR ADMISSION, LEACHCO, INC.’S SECOND SET OF REQUESTS FOR ADMISSION AND LEACHCO, INC.’S INTERROGATORY NO. 40

This matter, having come before the Presiding Officer on Complaint Counsel’s Motion for Protective Order as to Certain of Respondent Leachco, Inc.’s (“Leachco”) First Set of Requests for Admission, Leachco’s Second Set of Requests for Admission, and Leachco’s Interrogatory No. 40, it is hereby ORDERED that the Motion is GRANTED. It shall be further ORDERED, for good cause shown pursuant to 16 C.F.R. § 1025.31(d)(1) discovery shall not be had as to Leachco’s Request for Admission Nos. 3, 8-99, 102-123, 130-184, 212, 232-233, 236-278, 285-291, 293-296, 302, 305, 307-321, 325-363 as well as Interrogatory No. 40.

Done and dated _____ 2023.

Michael G. Young
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2023, I served Complaint Counsel's Motion For Protective Order as to Certain of Leachco, Inc.'s First Set Of Requests For Admission, Leachco, Inc.'s Second Set Of Requests For Admission And Leachco, Inc.'s Interrogatory No. 40 and Memorandum in Support 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
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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
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Michael J. Rogal
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U.S. Consumer Product Safety Commission