

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

**COMPLAINT COUNSEL'S
FIRST SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS TO RESPONDENT**

Pursuant to 16 C.F.R. § 1025.33, Complaint Counsel hereby requests that Respondent Britax Child Safety, Inc. ("Respondent") serve upon Complaint Counsel, within thirty (30) days, written responses to each of the requests set forth below, and, within thirty (30) days, produce at Complaint Counsel's office each of the documents and things requested below.

DEFINITIONS

1. "You," "your," "Respondent," and "Britax," means the Respondent to whom these discovery requests are directed (including if previously known under different names), including all past and present officers, directors, representatives, agents, and employees of the Respondent, all other past and present persons acting or purporting to act on Respondent's behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to Respondent), and all past and present parents, subsidiaries, divisions, or branches of Respondent, including without limitation, B.O.B. Trailers, Inc.

2. "B.O.B." means B.O.B. Trailers, Inc. (including if previously known under different names), including all past and present officers, directors, representatives, agents, and employees of B.O.B. Trailers, Inc., all other past and present persons acting or purporting to act on B.O.B. Trailers, Inc.'s behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to B.O.B. Trailers, Inc.), and all past and present parents, subsidiaries, divisions, or branches 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, office, or other business or legal entity, whether private or governmental, and whether foreign or domestic.

4. "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.*, LinkedIn or Facebook), digital file-sharing services (*e.g.*, Flickr), blogs and microblogs (*e.g.*, Twitter); instant messages; customer reviews and/or comments posted on the your website(s) relating to the Strollers; 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.

5. “Relating to” or “related to” means consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing, or bearing any logical or factual connection with the matter discussed.

6. “Identify” or “identity,” when used with respect to an individual, means to provide the individual’s present or last known name, residential address, telephone number, occupation, job or position, job title(s), employer, employer department and/or subject area in which the individual works, business affiliation, and business or employment address, and the individual’s relationships or associations, if any, to the Respondent.

7. “Identify” or “identity,” when used with respect to a business, entity, building, or place, means the present or last known name, address, and telephone number, and all former names, of that business, entity, building, or place, its state of incorporation,

registration, or organization, the identity and address of its registered agent in each state where it is present and doing business or has a place of business, its present officers, directors, and shareholders, and its relationship, if any, to the Respondent.

8. “Identify” or “identity,” when used with respect to a Document, means the name or title of the Document, a description of the Document or record, including its date of preparation and transmission, the author, sender, and recipient, a summary of the subject matter, and the identity of the Person who currently has custody of, possession of, or control over the Document. You may also identify a Document by providing a complete and legible copy thereof, and by stating that you have done so.

9. “Identify” when used with respect to a communication means to describe in detail the nature and content of the communication, state the date of the communication, identify all Persons to and from whom the communication was made, and identify all Persons hearing, witnessing, and/or present during the communication.

10. “Communications” means any disclosure, transfer, or exchange of information or opinion, however made, including, but not limited to, e-mails, voice mails, fax, memoranda, inquiries, reports, claims, and complaints.

11. “Strollers” means single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism that are listed in the Complaint in CPSC Docket 18-1 filed on February 16, 2018, including without limitation: the 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.

12. “QR Mechanism” means the removable quick release mechanism that is used to secure or remove the removable front wheel of the Strollers.
13. “Manufacture” means to “manufacture, produce, or assemble,” as defined in 15 U.S.C. § 2052(a)(10).
14. “Distribute” means to deliver, sell, give, allot, or otherwise provide in commerce, and shall include the giving away of free samples and promotional items.
15. “Complaint” means the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 18-1.
16. “Answer” shall mean the Answer and Defenses, including any amendments to the Answer and Defenses, of Respondent Britax Child Safety, Inc., filed in this action.
17. “Interrogatories” means Complaint Counsel’s First Set of Interrogatories to Respondent Britax Child Safety, Inc., served upon the Respondent.
18. “Requests for Production” means Complaint Counsel’s First Set of Requests for Production of Documents and Things to Respondent Britax Child Safety, Inc., served upon the Respondent.
19. “Hearing” shall mean any hearing conducted in this matter pursuant to 16 C.F.R. § 1025.41 *et seq.*
20. “Test” shall mean any examination, inspection, analysis, results, or other assessment of the Strollers, or any components of the Strollers.
21. “Retailer” shall mean any Person who sold the Strollers to consumers in the United States.

22. “ASTM” shall mean ASTM International, formerly known as the American Society for Testing and Materials, of West Conshohocken, PA, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on ASTM’s behalf.

23. “Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person.

INSTRUCTIONS

A. Each request shall be answered separately and fully in writing. Each response shall state, with respect to each Document, item, or category requested, that it has been produced, unless the request is objected to, in which event, the reasons for objection shall be stated. If objection is made only to part of a request, item, or category, that part shall be specified. A response should not be supplied solely by reference to the response to another request or subpart, unless the response is completely identical to the response to which reference is made.

B. The responses shall be signed by the Person giving them, and the objections, if any, shall be signed by the Person or attorney making them. When a complete response to a particular request is not possible after exercising the required diligence, the request shall be answered to the extent possible, and a statement shall be made indicating the reasons only a partial response is given, stating the information or knowledge you have concerning the unanswered portion or unproduced Documents, and describing your efforts to secure the unknown information or unproduced Documents.

C. Each 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, insurers, 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 their control.

D. Each request for a Document contemplates production of the Document in its entirety, without abbreviation or expurgation, including any amendments thereto, whether referred to in the Document, or otherwise.

E. Identify each Person who assisted or participated in preparing and/or supplying any of the information, Documents, and things given in response to, or relied upon, in preparing a response to a request.

F. 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.

G. 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.

H. The singular shall include the plural, and vice versa.

I. These requests shall be read, interpreted, and answered in accordance with these instructions and the definitions set forth here. If the meaning of any word or phrase used herein is unclear, the Respondent’s attorneys are requested to contact Complaint

Counsel to resolve any ambiguity. If any request cannot be complied with in full after exercising the required diligence, it shall be complied with to the extent possible, with a full statement of all efforts to make full compliance, and all reasons full compliance cannot be made.

J. If it is claimed that the attorney-client privilege or any other privilege is applicable to any Document sought by these discovery requests, specify the privilege claimed and the factual basis you contend supports the assertion of the privilege, and identify the Document as follows:

- i) State the date, nature, and subject matter of the Document;
- ii) Identify each author of the Document;
- iii) Identify each preparer of the Document;
- iv) Identify each Person who is an addressee or an intended recipient of the Document;
- v) Identify each Person from whom the Document was received;
- vi) State the present location of the Document and all copies thereof;
- vii) Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
- viii) State the number of pages, attachments, appendices, and exhibits;
and
- ix) Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted.

K. For any Communication with respect to which a privilege is asserted, identify the Persons or entities among whom the Communication took place, the date of the Communication, and the subject.

L. In the event that any Document sought by these discovery requests has been destroyed, discarded, or otherwise disposed of, that Document is to be identified as completely as possible, including, without limitation, the following information:

- i) Identify each author of the Document;
 - ii) Identify each preparer of the Document;
 - iii) Identify each addressee or intended recipient of the Document;
 - iv) Identify each Person who received the Document;
 - v) State the date of the Document;
 - vi) State the subject matter of the Document;
 - vii) State the reason for disposal of the Document;
 - viii) Identify each Person who authorized disposal of the Document;
- and
- ix) Identify each Person who disposed of the Document.

M. If any Document was, but is no longer, in your possession, custody, or control, provide the following information:

- i) State the disposition of the Document;
- ii) State the date such disposition was made;
- iii) Identify the present custodian of the Document, or, if the Document no longer exists, so state;
- iv) Identify the Person(s) who made the decision regarding the

disposition of the Document; and

- v) State the reasons for the disposition, and describe the Document and the contents of the Document, including the title, author, position or title of the author, addressee, position or title of the addressee, whether indicated or blind copies were made, date, subject matter, number of pages, attachments or appendices, and all Persons to whom the Document was distributed, shown, or explained.

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

O. In producing the documents and things requested here, indicate, and segregate the Documents by the specific request (by paragraph and subparagraph numbers/letters) in response to which each Document, group of documents, or thing is produced.

P. Please provide all responsive Documents, including hardcopy, electronic and e-mail Documents in electronic format on CD or DVD. Document level searchable text, all fielded data, and meta-data should be delivered in Concordance® load file (DAT and OPT) accompanied by Bates-numbered single page Group IV TIFF images representing each page of production.

REQUESTS FOR PRODUCTION

REQUEST NO. 1

All Documents in support of and upon which you base the Answer, including each of the Answer's admissions, denials, and affirmative or other defenses.

REQUEST NO. 2

All Documents identified in answers to the Interrogatories and all Documents relating to your answers to the Interrogatories, in support of your answers, and used or relied upon in preparing your answers.

REQUEST NO. 3

All Documents refuting or tending to refute the allegations of the Complaint.

REQUEST NO. 4

All Documents supporting or tending to support the allegations of the Complaint.

REQUEST NO. 5

All of your written document or sample retention policies in effect at any time(s) since the importation or distribution of the Strollers.

REQUEST NO. 6

All organizational charts and similar documents created at any time that discuss lines of authority or personnel reporting requirements within B.O.B. or Britax.

REQUEST NO. 7

All Documents relating to each Communication, whether in Person, by telephone, or by some other means, whether in a discussion, meeting, or other setting, relating to the subject matter of this litigation, the Complaint, the Answer, the Documents requested here, and/or the Strollers, between, among, by, or with any Persons, including, but not

limited to: the Respondent; the Respondent's employees, former employees, agents, and/or representatives; Retailers; and customers or users.

REQUEST NO. 8

All statements relating to the subject matter of this litigation, the Complaint, and the Answer.

REQUEST NO. 9

All Documents created at any time related to the design and development of the Strollers' QR Mechanism and dropouts on the front wheel of the Strollers.

REQUEST NO. 10

All Documents created at any time related to the advertising, marketing, and sale of the Strollers' addressing the Strollers' QR Mechanism or dropouts on the front wheel of the Strollers.

REQUEST NO. 11

Provide one example of each iteration or version of every label, warning, instruction, or video that included information on the possible risks associated with use of the QR Mechanism or front wheel detachment, which appeared on the packaging, labeling, warnings, and instructions of the Strollers, and/or was included in advertising and marketing materials for the Strollers.

REQUEST NO. 12

All Documents and Communications, whether formal or informal, including opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, which discuss or refer to the effectiveness of any labels, warnings, instructions,

or videos, including warnings related to the Strollers' QR Mechanism or front wheel detachments involving the Strollers.

REQUEST NO. 13

All Documents and Communications, whether formal or informal, including opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, that discuss or refer to the QR Mechanism, the dropout fork assembly, or front wheel detachments involving the Strollers.

REQUEST NO. 14

All Documents and Communications, whether formal or informal, including any opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, that evaluate the risks, hazards, or safety of the design of the Strollers.

REQUEST NO. 15

All Documents relating to the manufacture, packaging, and engineering of the Strollers, including, but not limited to, the following:

- a) The identification and procurement of component parts;
- b) The identification and retention of a facility or facilities to manufacture the Strollers, including the component parts of the Strollers;
- c) The creation and procurement of necessary tools and equipment;
- d) Any differences in the manufacturing processes regarding different models, versions or colors of the Strollers;
- e) All Documents relating to changes at any time in the design, specifications, manufacture, and procedures for the manufacture

of the Strollers, including changes to its materials, component parts, composition and construction; and

- f) All complete engineering drawing packages, engineering drawings, requests for changes, and change notices.

REQUEST NO. 16

All Documents relating to the importation of the Strollers, including, but not limited to, all Documents required to be produced and delivered upon importation to any government agency.

REQUEST NO. 17

Documents establishing the total number of Strollers distributed in U.S. commerce by B.O.B. or Respondent, including the number of Strollers distributed by model type and the number distributed to each Retailer, customer, or other consumer.

REQUEST NO. 18

All Documents related to distribution and sale of the Strollers to Retailers from 1997 to the present, including, but not limited to, the following:

- a) Documents related to providing Retailers with materials related to the Strollers' QR Mechanism;
- b) Documents related to providing Retailers with materials related to front wheel detachments involving the Strollers; or
- c) Documents related to providing Retailers with marketing or advertising material related to the Strollers' QR Mechanism or front wheel detachments involving the Strollers.

REQUEST NO. 19

All Documents relating to any Tests conducted on the Strollers, including all Test results, reports, or any other Document containing analysis and conclusions. This request includes, but is not limited to, Documents related to:

- a) Testing or certification to determine if the Strollers meet or fail to meet any mandatory or voluntary standard;
- b) Testing to evaluate the safety of the Strollers;
- c) Testing to assess how a consumer will interact with and operate the Strollers, including any human behavior analysis, whether by a Human Factors expert, or by any other expert or Person;
- d) Testing to assess the effectiveness of the Strollers' warnings, labels, and instructions;
- e) All Documents related to any changes made in the design, manufacture, importation, distribution, sale, marketing, promotion, or advertising of the Strollers, following any Tests of the Strollers.
- f) All Documents related to any Tests conducted regarding the Strollers' QR Mechanism or front wheel detachments involving the Strollers.

REQUEST NO. 20

All Documents related to any return, RMA, claim, warranty claim, complaint, inquiry or reports of incidents, injuries, or fatalities related to the front wheel of the Strollers detaching or the QR Mechanism, received from any source, including, but not limited to, from consumers; through Retailers; through hospitals and physicians; through

insurers; through any foreign, domestic, state or local government official or entity. This request includes:

- a) All Documents associated with the return, RMA, claim, warranty claim, complaint, inquiry, or reports of incidents, injuries, or fatalities, including Documents given to you, as well as Documents you requested from the Person making the report. The request also includes Documents you received from a third party, such as medical reports or insurance claims; and
- b) All Documents generated by you, or generated by a third party at your request, such as witness statements or evaluations and assessments of the return, RMA, claim, warranty claim, complaint, inquiry or report.

REQUEST NO. 21

All nonprivileged Documents and Communications relating to negotiations, lawsuits, and alternative dispute resolution proceedings related to the Strollers' QR Mechanism or front wheel detachments involving the Strollers.

REQUEST NO. 22

All Documents and Communications involving ASTM regarding the Strollers or any component part of the Strollers, including the Strollers' QR Mechanism, front wheel fork assembly, or front wheel detachments involving the Strollers.

REQUEST NO. 23

All Documents related to any trademark, patent, or intellectual property regarding the Strollers.

REQUEST NO. 24

All founding and organizing Documents, past and present, for Respondent and B.O.B., and any amendments thereto, including, but limited to, the certificate of formation, articles of incorporation, corporate bylaws, and articles of merger or similar documents.

REQUEST NO. 25

All Documents that Respondent or B.O.B. filed with the South Carolina Secretary of State, the California Secretary of State, or any other state agency or division responsible for registering business entities and maintaining public records related to the formation or existence of business entities.

REQUEST NO. 26

All Communications and Documents between Respondent and any employee, director, officer, agent, Retailer, distribution center, distributor, or any other customer, Affiliate or representative of Respondent regarding the Strollers' QR Mechanism or front wheel detachments involving the Strollers.

REQUEST NO. 27

All Communications and Documents between Respondent and any other Person regarding the Strollers' QR Mechanism or front wheel detachments involving the Strollers.

REQUEST NO. 28

All Documents related to changes or revisions to the design, specifications, manufacture, and procedures for the manufacture of other similar jogging strollers related to:

- a) Elimination of the dropouts on the front fork;
- b) A “thru-axle” fork design;
- c) Modification of the QR Mechanism; or
- d) Elimination of the QR Mechanism on models such as the Rambler.

REQUEST NO. 29


All Documents that were in B.O.B.’s possession, custody, or control at any time that are responsive to any of the Requests for Production, including, but not limited to, responsive Documents among what Respondent has referred to as the B.O.B. “legacy” records or Documents.

REQUEST NO. 30

Two samples of all replacement front forks that were provided to consumers in response to any RMA, claim, warranty claim, complaint, inquiry or reports of incidents, injuries, or fatalities, including any labels, instructions, or warnings that accompanied such replacement front forks.

REQUEST NO. 31

All documents related to the Revolution SE Demo model jogging stroller’s QR Mechanism or front wheel detachments involving the Revolution SE Demo model jogging stroller.


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Office of the General Counsel
U.S. Consumer Product Safety Commission

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Complaint Counsel for
U.S. Consumer Product Safety Commission
Bethesda, MD 20814

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2018, I served Complaint Counsel's First Set of Requests for Production of Documents and Things to Respondent upon all parties and participants of record in these proceedings by mailing, postage prepaid, a copy to each and emailing a courtesy copy as follows, unless otherwise indicated below:

Service by Hand Delivery and 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

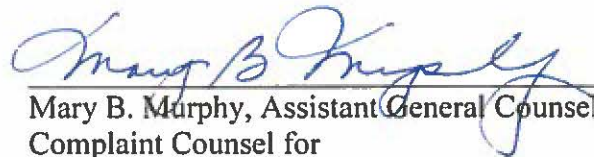
Service by Hand Delivery and Email to the Presiding Officer:

Presiding Officer
c/o Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: amills@cpsc.gov

Service by U.S. Mail and Email to Counsel for Respondent:

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Mary B. Murphy, Assistant General Counsel
Complaint Counsel for
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