

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 REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS TO
CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to 16 C.F.R. § 1025.33, Respondent Britax Child Safety, Inc. (“Britax ”) hereby requests that the Consumer Product Safety Commission (“CPSC”) produce the following documents and/or things for inspection and copying within 30 days of service hereof at the offices of Miles & Stockbridge P.C., 100 Light Street, Baltimore, MD 21202.

DEFINITIONS AND INSTRUCTIONS

A. In the following requests:

1. “You,” or “your,” shall mean the CPSC and includes the staff and, where applicable, the Commissioners. References to the “staff” and the “Commissioners” shall refer to the staff and Commissioners (including without limitation the Office of Compliance and Field Operations and the Office of Communications) of the CPSC, respectively.

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, 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 Complaint filed against Britax in the above-captioned matter.

6. The term “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 document production requests 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 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.

E. 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:

1. State the date, nature, and subject matter of the Document;
2. Identify each author of the Document;
3. Identify each preparer of the Document;
4. Identify each Person who is an addressee or an intended recipient of the Document;
5. Identify each Person from whom the Document was received;
6. State the present location of the Document and all copies thereof;
7. Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
8. State the number of pages, attachments, appendices, and exhibits; and

9. Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted.

F. 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.

G. 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, by including, without limitation, the following information:

1. Each author of the Document;
2. Each preparer of the Document;
3. Each addressee or intended recipient of the Document;
4. Each Person who received the Document;
5. The date of the Document;
6. The subject matter of the Document;
7. The reason for disposal of the Document;
8. Each Person who authorized disposal of the Document; and
9. Each Person who disposed of the Document.

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

1. State the disposition of the Document;
2. State the date such disposition was made;
3. Identify the present custodian of the Document, or, if the Document no

longer exists, so state;

4. Identify the Person(s) who made the decision regarding the disposition of the Document; and

5. 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.

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

DOCUMENT PRODUCTION REQUESTS

1. All Documents described in your “List and Summary of Documentary Evidence” filed in these proceedings.

2. All Documents that support the allegations in the Complaint.

3. All Documents that you intend to introduce in evidence at the hearing on this matter.

4. All Documents referred to, or relied upon in answering, any Interrogatories propounded to you by Britax.

5. All Documents that support your denial of any Request for Admission by Britax.

6. All Documents relating to any assessments, evaluations, analysis and testing, including without limitation any Product Safety Assessments (PSA), performed by or on behalf

of the CPSC, or upon which the CPSC relies or has relied, with respect to any aspect of the Subject Products, including but not limited to:

- a. Design
- b. Warnings
- c. Instructions
- d. Packaging
- e. Advertising and marketing
- f. Any other issue

7. All Documents relating to any assessments, evaluations, analysis and testing, including without limitation any Product Safety Assessments (PSA), performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, with respect to any aspect of the safety of a Quick Release on any product, including but not limited to:

- a. Design
- b. Warnings
- c. Instructions
- d. Packaging
- e. Advertising and marketing
- f. Any other issue

8. All Documents relating to or documenting any inspections and testing of any Subject Products.

9. All Documents relating to CPSC evaluation and adoption of ASTM F833-13 and ASTM F833-15 as a mandatory safety standard.

10. All Documents and communications among the staff and/or Commissioners, and among the CPSC and third parties, regarding or pertaining to the Subject Products.

11. All Documents and communications among the staff and/or Commissioners, and among the CPSC and third parties, regarding or pertaining to the Complaint, its preparation, filing or approval.

12. All Documents relating to meetings or communications between any member of the staff and any Commissioner relating to the Complaint, its preparation or filing.

13. All Documents relating to meetings or communications between any member of the CPSC and any third party, other than Britax, relating to the Complaint, Britax, the Subject Products, or other Strollers.

14. All Documents relating to meetings or communications between any member of the CPSC and any third party, other than Britax, relating to any Quick Release used in any other products.

15. All Documents relating to any reports under section 15 of the Consumer Product Safety Act, whether initiated by a company or requested by the CPSC staff, involving a Quick Release of any Jogging Stroller, including without limitation any Documents relating to (i) any Preliminary Determination that arose of any such report; and (ii) any corrective action that arose out of any such report, whether or not the corrective action followed a Preliminary Determination.

16. All Documents relating to any reports under section 15 of the Consumer Product Safety Act, whether initiated by a company or requested by the CPSC staff, involving a Quick Release of any product other than a Jogging Stroller, including without limitation any Documents relating to (i) any Preliminary Determination that arose out of any such report; and

(ii) any corrective action that arose out of any such report, whether or not the corrective action followed a Preliminary Determination.

17. All Documents relating to Britax's report under section 15 of the Consumer Product Safety Act, CPSC File No. RP160404.

18. All Documents relating to the decision to file the Complaint.

19. All Documents relating to CPSC File No. RP160404, including without limitation (i) any communications among the staff and/or Commissioners; (ii) any communications among the CPSC and third parties; and (iii) the basis for the staff's Preliminary Determination dated March 22, 2017.

20. All Documents relating to any incidents, injuries or deaths involving the Subject Products, including without limitation consumer reports to CPSC, Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports) or reports submitted to CPSC via saferproducts.gov (whether or not eligible for publication).

21. All Documents provided by CPSC to any ASTM staff, working group or task group involving alleged wheel detachments on Jogging Strollers, whether or not equipped with Quick Releases.

22. All Documents reflecting communications between CPSC and ASTM staff, working groups or task groups involving alleged wheel detachment on Jogging Strollers, whether or not equipped with Quick Releases.

23. All Documents relating to any incidents, injuries or deaths involving Quick Releases, including without limitation consumer reports to CPSC, Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports) or reports submitted to CPSC via saferproducts.gov (whether or not eligible for publication).

24. All Documents relating to CPSC consideration of issuance of any safety alert involving front wheel detachment in Strollers or any other consumer product containing Quick Releases.

25. All Documents relating to the July 19, 2017 meeting between CPSC and Britax.

26. All Documents relating to any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, of consumer reviews of: (a) the Subject Products on retailer websites; or (b) any other Strollers on retailer websites; or (c) any other products containing Quick Releases on retailer websites.

27. All Documents relating to any communications by the CPSC to any retailers regarding the Subject Products, other Strollers, or other products containing Quick Releases.

28. All Documents relating to any communications between the CPSC and nongovernmental organizations including, without limitation, consumer advocacy groups or other similar organizations regarding the Subject Products, other Strollers, or other products containing Quick Releases.

29. All Documents supporting the assertion in the 2013 Notice of Proposed Rulemaking to establish a mandatory Consumer Product Safety Standard for strollers (78 Fed. Reg. 29821) that CPSC staff was aware of 429 incidents, including 52 injuries, involving wheel hazards.

30. All Documents supporting the assertion in the 2014 Final Rule establishing a mandatory Consumer Product Safety Standard for strollers (79 Fed. Reg. 13208) that CPSC staff was aware of an additional 25 new incidents (since the Briefing Package was prepared for the Notice of Proposed Rulemaking) involving “wheel problems.”

31. All Documents that support your statement in Paragraph 25 of the Complaint that the Subject Products “are defective because the QR can fail to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.”

32. All Documents relating to any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, comparing the number or frequency of front wheel detachments in Strollers containing Quick Releases with the number or frequency of wheel detachments in any other product.

33. All Documents relating to any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, comparing the injuries associated with front wheel detachments in Strollers containing Quick Releases with injuries associated with wheel detachments in any other product.

34. All Documents relating to any incident of front wheel detachment in the Subject Products that you allege to have occurred.

35. All Documents relating to any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, considering the utility to consumers of any products containing Quick Releases, including but not limited to, all Strollers.

36. All Documents relating to any regulatory evaluation conducted by or on behalf of the CPSC, or upon which the CPSC relies or has relied to evaluate the effectiveness of the warning labels on the Subject Products, or on other Quick Releases.

37. All Documents relating to the incidents, injuries or deaths involving children or adults from injuries related to Quick Releases.

38. All Documents relating to the actions of any manufacturers to address the risk of product misuse of Quick Releases.

39. All Documents relating to the actions of any manufacturers to warn consumers regarding Quick Releases.

40. All Documents relating to communications between the CPSC and any persons, their parents, guardians or attorneys, who alleged that they experienced a sudden wheel detachment due to an improperly used Quick Release, including without limitation the Subject Products.

41. All Documents relating to any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, with respect to the National Electronic Injury Surveillance System (NEISS) and:

- (a) the Subject Products;
- (b) other Strollers; or
- (c) any other Quick Releases or consumer products containing Quick Releases.

42. All Documents relating to any analysis performed by or on behalf of the CPSC, or upon which the CPSC relies or has relied, with respect to any comparison of the performance, risks, or any other aspect of Quick Releases to the performance, risks, or any other aspect of non-quick release wheels on any products.

43. All Documents relating to any risk assessment involving the Subject Products, Jogging Strollers or other products containing Quick Releases.

44. All Documents relating to any retailer advertising or marketing of Strollers containing Quick Releases.

45. All Documents relating to consideration by any voluntary standards organization of a voluntary standard with respect to Strollers or other consumer products consisting of or containing Quick Releases.

46. All Documents relating to communications between the CPSC and any persons who own, used or where involved in any incidents allegedly involving a Subject Product.

47. Any photograph of any Subject Product related to the relief requested in the Complaint, whether taken by you or by any other person.

48. Any X-ray or other recorded radiographic or diagnostic study of the Subject Products or any component part thereof (including without limitation fluoroscopy, ultrasonography, scanning electron microscopy, light microscopy, or energy dispersive analysis x-ray (EDAX)), or any other physical evidence related to the relief requested in the Complaint.

49. Any document provided to, or prepared by, for, or at the direction of, or which in any way was relied upon or forms the basis for the opinions of, any person you expect to call as an expert witness at trial or any hearing in this matter, including the expert's complete file and any communications between the expert and the CPSC.

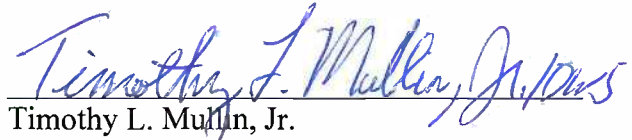
50. The curriculum vitae, resume or other summary of the qualifications of any person you expect to call as an expert witness at trial or any hearing in this matter, including without limitation a list of all publications authored or co-authored by the witness, the amount of and basis for the compensation of the witness, and a list of cases (described by name of case, jurisdiction, case number, and date of testimony) in which the witness has testified.

REQUESTS FOR PRODUCTION OF THINGS

51. Produce at a reasonable time and place for non-destructive examination any Subject Products which you have obtained, analyzed and/or tested related to any of the allegations in the Complaint.

52. Produce at a reasonable time and place for non-destructive examination any Jogging Strollers which you have obtained, analyzed and/or tested related to any of the allegations in the Complaint.

Dated: March 20, 2018



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Attorneys for Respondent,
Britax Child Safety, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2018, a true and correct copy of Respondent's First Set of Requests for Production of Documents 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

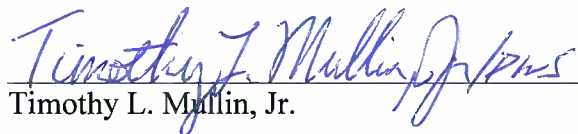
One copy by U.S. Mail and one copy by electronic mail to Complaint Counsel:

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