

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

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Floor of the Secretary  
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In the Matter of

BABY MATTERS LLC,

CPSC Docket No. 13-1

Respondent.

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**REPLY OF BRIAN THIEL AND KRISTINE MAKO TO PETITIONER'S AND  
RESPONDENT'S RESPONSE TO PETITION TO INTERVENE**

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Brian Thiel and Kristine Mako agree with Petitioner and Respondent that they more properly meet the criteria for intervention as non-parties under 16 CFR §1025.17(b). Accordingly, they withdraw their request to intervene as a party.

With respect to intervention as a non-party, Complaint Counsel (Petitioner) takes no position. Respondent appears to not object, stating (at page 6 of its Response):

Instead, this Court should permit Petitioners to participate, if at all, as non-party participants, as alternatively requested in their Petition.

Mr. Thiel and Ms. Mako do not have any desire to litigate their individual case within this administrative proceeding. They have ample opportunity for discovery in their own personal case. Rather, they desire to provide maximum assistance to the CPSC in order to help assure that the dangerous products at issue permanently remain off the market. Although their claims (pending in the U.S. District Court for the Eastern District of Michigan) are unique to the incident involving the death of their child, the fact gathering they have undertaken has broader application which would be of significant benefit in these proceedings.

Moreover, there is no intent to delay these proceedings. In fact, the willingness to share information would aid in presenting the record in this case.

Finally, to the extent that Complaint Counsel asserts the "Secretary" was not served, Mr. Thiel and Ms. Mako have now formally served the Secretary. It should be noted that Complaint Counsel (attorneys with the Consumer Product Safety Commission), were previously served with the Petition. Accordingly, there is no substantive deficiency which merits denial of the Petition to Intervene as a non-party.

Accordingly, Brian Thiel and Christine Mako request an Order granting their petition to Intervene as non-party.

Respectfully submitted,

**GIARMARCO, MULLINS & HORTON, PC**

By: 

Latry W. Bennett (P26294)  
Geoffrey S. Wagner (P70839)  
Attorneys for Petitioners  
101 West Big Beaver Road, Tenth Floor  
Troy, MI 48084  
(248) 457-7037

Dated: February 11, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have served the attached document upon all parties and participants of record in these proceedings by mailing, postage prepaid a copy to each on February 11, 2013 at the addresses listed below:

Kelly Moore, Trial Attorney  
U.S. Consumer Product Safety Commission  
4330 East West Highway, No. 502  
Bethesda, Maryland 20814

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February 11, 2013

**VIA - Certified Mail**  
**Return Receipt Requested**

Consumer Products Safety Commission  
Office of the Secretary - Todd Stevenson  
4330 East West Highway  
Bethesda, Maryland 20814

**Re: Baby Matters, LLC/Nap Nanny**

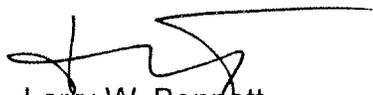
Dear Mr. Stevenson:

Enclosed, please find a copy of a Petition to Intervene on behalf of Brian Thiel and Kristine Mako, as well as the Reply of Brian Thiel and Kristine Mako to Petitioner's and Respondent's Response to Petition to Intervene.

Thank you for your attention to the enclosed.

Very truly yours,

**GIARMARCO, MULLINS & HORTON, P.C.**



Larry W. Bennett

LWB/plr

Enclosures

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of

BABY MATTERS LLC,

CPSC Docket No. 13-1

Respondent.

---

**PETITION TO INTERVENE ON BEHALF OF  
BRIAN THIEL AND KRISTINE MAKO**

---

Brian Thiel and Kristine Mako move for intervention in this matter, and in conformity with 16 CFR 1025.17, state as follows:

1. Petitioners, a married couple, are the parents of Juliette Grace Thiel. Juliette died on July 9, 2010 as a direct result of defects in the Nap Nanny.
2. Petitioners' interest may be affected by the result of the proceedings in that Baby Matters has improperly continued to blame Petitioners and others for the death of their child and have refused to make the appropriate changes in the product (or recall it) in order to prevent additional deaths.
3. It is anticipated that Baby Matters will assert during these proceedings that the death of Juliette Thiel was not its fault but rather the fault of Petitioners, among others.
4. Petitioners' intervention would be of assistance in developing a sound record. Petitioners have been involved in litigation with Baby Matters, LLC in the United States District Court for the Eastern District of Michigan and have gathered evidence which could assist in fully developing the record of this matter.

5. Petitioners' intervention would not broaden the issues or delay the proceedings.
6. To the extent the showing above is not sufficient to establish Petitioners as proper parties to this matter, Petitioners request that they be allowed to participate in the proceedings as a nonparty pursuant to 16 CFR 1025.17(b).

**RELIEF REQUESTED**

Petitioners, Brian Thiel and Kristine Mako, request permission to intervene in this matter as a party, or in the alternative, as a participant in the proceedings as a nonparty.

Respectfully Submitted,

**GIARMARCO, MULLINS & HORTON, PC**

By: 

Larry W. Bennett (P26294)  
Geoffrey S. Wagner (P70839)  
Attorneys for Petitioners  
101 West Big Beaver Road, Tenth Floor  
Troy, MI 48084  
(248) 457-7037

Dated: January 25, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the attached document upon all parties and participants of record in these proceedings by mailing, postage prepaid a copy to each on January 25, 2013 at the addresses listed below:

Kelly Moore, Trial Attorney  
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4330 East West Highway, No. 502  
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