

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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U.S. Department of Commerce
FOI

In the Matter of

BABY MATTERS LLC,

CPSC Docket No. 13-1

Respondent.

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

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: _____


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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:

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