

**UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of	)	CPSC Docket No: 13-1
	)	
	)	
BABY MATTERS, LLC	)	
	)	
	)	
Respondent.	)	HON. WALTER J. BRUDZINSKI
	)	Administrative Law Judge

**FINAL PRE-HEARING ORDER**

On Monday, January 28, 2013, the undersigned Administrative Law Judge (ALJ) and the parties convened a pre-hearing conference in the above captioned matter as previously published in the Federal Register. Respondent's counsel appeared in person and Complaint Counsel participated via telephone. Also participating via telephone was Intervenor's counsel.

The parties and the ALJ discussed the fourteen topics set forth in 16 C.F.R. § 1025.21 and established a schedule as follows:

**(1) Petitions for leave to intervene;**

By counsel, Brian Thiel and Kristine Mako submitted a Petition to Intervene. Complaint Counsel and Respondent shall respond to the Petition on or before February 4, 2013. Petitioners must then file any reply on or before February 11, 2013. The undersigned will then rule on the Petition.

**(2) Motions, including motions for consolidation of proceedings and for certification of class actions;**

Complaint Counsel moved for Leave to File an Amended Complaint. Respondent did not oppose the motion. The undersigned granted the motion and accepted the Amended Complaint on January 28, 2013. Respondent's Amended Answer shall be filed on or before February 19, 2013.

Complaint Counsel also moved for a forty-five (45) day extension to answer Respondent's first discovery request filed on December 26, 2012. Respondent did not

oppose the motion. The undersigned ALJ granted the motion in part. Complaint Counsel's response is due on or before February 27, 2013.

Respondent moved for reconsideration of the undersigned's January 22, 2013 Order denying its Motion to Compel a Correction and Retraction and for Sanctions. The undersigned denied Respondent's motion at the pre-hearing conference; however, an Order articulating the reasons for the denial will be issued subsequently.

**(3) Identification, simplification and clarification of the issues;**

The undersigned identified two issues in this case with no objection from either party:

- a. Are Subject Products a substantial product hazard under 15 U.S.C. § 2064(a)(1) and/or (a)(2)?
- b. Do Subject Products create a substantial risk of injury to children under 15 U.S.C. § 1274(c)(1)?

**(4) Necessity or desirability of amending the pleadings;**

Discussed above under subpart (2).

**(5) Stipulations and admissions of fact and the content and authenticity of documents;**

All stipulations, admissions, content, and authenticity of documents shall be served on or before April 22, 2013.

**(6) Oppositions to notices of depositions;**

All oppositions to notices of depositions shall be served on or before March 21, 2013.

**(7) Motions for protective orders to limit or modify discovery;**

All motions for protective orders to limit or modify discovery must be served on or before March 4, 2013.

**(8) Issuance of subpoenas to compel the appearance of witnesses and the production of documents;**

All requests for the ALJ to issue subpoenas to compel the appearance of witnesses and the production of documents shall be served no later than April 10, 2013.

**(9) Limitation of the number of witnesses, particularly to avoid duplicate expert witnesses;**

All requests to limit the number of witnesses must be served on or before March 21, 2013.

**(10) Matters of which official notice should be taken and matters which may be resolved by reliance upon the laws administered by the Commission or upon the Commission's substantive standards, regulations, and consumer product safety rules;**

All requests for the ALJ to take official notice or resolve matters described above shall be served on or before April 10, 2013.

**(11) Disclosure of the names of witnesses and of documents or other physical exhibits which are intended to be introduced into evidence;**

All disclosure of witnesses and documents or other physical exhibits intended to be introduced into evidence shall be served no later than March 21, 2013.

**(12) Consideration of offers of settlement;**

All offers of settlement shall be considered until May 13, 2013.

**(13) Establishment of a schedule for the exchange of final witness lists, prepared testimony and documents, and for the date, time and place of the hearing, with due regard to the convenience of the parties;**

In addition to all dates previously discussed in this Order, the discovery and hearing schedule for this case is as follows:

- a. All initial discovery requests must be served on or before February 19, 2013;
- b. A responding party has thirty (30) days to serve a response to a discovery request. All responses to discovery requests must therefore be completed on or before March 21, 2013.
- c. Pursuant to 16 C.F.R. § 1025.36, all motions to compel discovery must be made within twenty days after the response was due. All motions to compel discovery must therefore be served on or before April 10, 2013.
- d. As stated above under subpart (11), all witnesses and exhibits shall be exchanged on or before March 21, 2013.
- e. All direct expert testimony shall be exchanged on or before April 22, 2013. Further, all requests to amplify direct expert testimony at the hearing shall be served on or before April 22, 2013.

f. All motions, including motions for summary decision, must be served on or before April 22, 2013. As an additional matter, all requests for a continuance of the hearing should also be served on or before April 22, 2013.

g. All pre-hearing briefs must be filed on or before May 1, 2013.

h. The hearing shall begin at 9:30 a.m., Monday, May 20, 2013 at:

U.S. Customs House  
40 S. Gay Street  
4<sup>th</sup> Floor, Room 403 (U.S. Coast Guard ALJ Courtroom)  
Baltimore, MD 21202


**(14) Such other matters as may aid in the efficient presentation or disposition of the proceedings.**

There were no such matters for the parties or undersigned to discuss.

**PLEASE TAKE NOTICE** that the undersigned will issue a separate Order addressing service of documents and filing procedures.

**SO ORDERED.**

Done and dated January 31, 2013  
New York, NY

  
**Walter J. Brudzinski**  
**Administrative Law Judge**