

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

**MEMORANDUM IN SUPPORT OF COMPLAINT COUNSEL’S MOTION FOR LEAVE
TO TAKE DEPOSITIONS**

Complaint Counsel seeks leave pursuant to 16 C.F.R. § 1025.35 to take the depositions upon oral examination of Leslie Gudel, President, owner, and founder of Baby Matters, LLC; Krista Ross, Director of Customer Service for Baby Matters, LLC; and the person most knowledgeable concerning:

- 1) The design, development, and manufacturing of the Subject Products;
- 2) The sales, marketing and advertising of the Subject Products;
- 3) The testing and evaluation of the safety of the Subject Products, including the harness restraint system;
- 4) The evaluation of risks, including risks of foreseeable misuse, of the Subject Products;
- 5) The development of advertising and marketing campaigns for the Subject Products;
- 6) The development of instructions and warnings concerning the Subject Products and evaluation of the effectiveness of such instructions and warnings;
- 7) Claims, complaints, injuries, fatalities and litigation relating to the Subject Products, and;
- 8) Respondent’s finances, assets and profits.

Complaint Counsel also seeks leave to take the deposition of each person that Respondent names as an expert witness.¹

The rules permit depositions of parties, “including the agents, employees, consultants, or prospective witnesses of that party,” upon leave of the Presiding Officer. 16 C.F.R.

§ 1025.35(a). The rules also state that such depositions may be considered by the Presiding Officer in deciding motions for a Summary Decision. *See* 16 C.F.R. § 1025.25(c). Leave to take depositions should be granted for good cause, but may be denied in order “to prevent dilatory tactics, as well as harassment or abuse.” 45 Fed. Reg. 29206, 29212-13 (May 1, 1980).

Here, Complaint Counsel is timely seeking leave to take depositions of individuals who are central to the disposition of the matter in this proceeding. As President, founder, and owner of Respondent, Leslie Gudel is familiar with the design, development, testing, marketing and sale of the Subject Products, and as such, deposing her is necessary and appropriate under the rules. Similarly, Krista Ross, the Director of Customer Service, was responsible for handling customer complaints and safety concerns about the Subject Products. Likewise, the person most knowledgeable about the above-described topics will provide testimony relating to the claims in the Amended Complaint concerning the safety and risks of the Subject Products and the Respondent’s ability to provide the requested relief. Because the Presiding Officer may also decide the issues in this case based on the opinions of any experts named by the Respondent, Complaint Counsel also seeks leave to depose those experts concerning their opinions relating to the Subject Products.

¹ Complaint Counsel also reserves the right to seek a subpoena for any materials to be produced at the depositions.

Complaint Counsel seeks leave to take depositions in order to develop evidence directly pertinent to the issue before this court – whether the Subject Products pose a substantial product hazard. Complaint Counsel respectfully requests that the motion be granted.

A handwritten signature in cursive script that reads "Daniel Vice". The signature is written in dark ink and is positioned above a solid horizontal line.

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