

In the Matter of	)	
	)	
BABY MATTERS LLC,	)	
	)	CPSC DOCKET No. 13-1
	)	
	)	
Respondent.	)	
	)	
	)	

Pursuant to 16 C.F.R. 1025.32, Baby Matters, LLC (“Respondent,” or “Baby Matters”) hereby propounds the following First Set of Interrogatories to the Consumer Product Safety Commission (the “Commission”). These Interrogatories are to be answered separately and fully in writing under oath, within thirty (30) days.

1. The term “you” or the possessive “your” shall refer to the United States of America Consumer Product Safety Commission and its Commissioners, employees, officers, directors and other agents.

- 1

5. The term “Gen1” shall refer to the first generation model of the Nap Nanny<sup>®</sup> infant recliner manufactured and sold by Baby Matters from approximately January 2009 through August 2009.

6. The term “Gen2” shall refer to the second generation model of the Nap Nanny<sup>®</sup> infant recliner manufactured and sold by Baby Matters from approximately August 2009 through December 2010.

7. The term “Chill” shall refer to the model of the Nap Nanny<sup>®</sup> infant recliner manufactured and sold by Baby Matters from approximately January 2011 to present.

8. The term “Subject Products” shall refer to the Gen1, Gen2 and Chill products.

9. The term “document” means all written, printed, typed, and electronic media, and any other media from which information can be derived. It includes, without limitation, original documents, drafts, non-identical copies, diaries, correspondence, proposals, valuations, financial statements, contracts, letters, memoranda, appointment calendars, schedules, books, indices, printed forms, publications, press releases, notices, brochures, pamphlets, guidelines, manuals, minutes, summaries, abstracts, reports, files, file jackets, transcripts, data processing cards, computer tapes, discs, and hard drives, print-outs, information contained in, on, or retrievable from computer programs, bulletins, surveys, charts, exhibits, diagrams, graphs, tables, photographs, recordings, telegrams, cables, telex messages, facsimiles, microfilms, videotapes, studies, work papers, analyses, valuations, and notes.

10. The term “Complaint” shall refer to the Complaint, as amended, filed by Commission in this litigation.

11. The term “Release #12-DRAFT 8/29/12” shall refer to the letter sent by the Commission to Baby Matters on or around August 31, 2012, warning, *inter alia*, of the

Commission's intent to issue a press release regarding the alleged dangers of using Baby Matters' products.

12. The term "Release #12-DRAFT10/3/12" shall refer to the letter sent by the Commission to Baby Matters on or around October 4, 2012, revising Release #12-DRAFT 8/29/12" and issuing a Notification of Intent to Issue Attached Warning in which the Commission intended to warn consumers to stop using Baby Matters Gen1 and Gen2 Nap Nanny products.

13. The term "Release-DRAFT10/5/12" shall refer to the letter sent by the Commission to Baby Matters on or around October 5, 2012, revising and reversing the position taken in Release #12-DRAFT10/3/12 with respect to the Chill, issuing a Preliminary Determination with regard to the Chill and urging consumers to cease the use of all of the Subject Products.

14. The term "identify," when used in reference to an individual, means to state his/her full name, present or last known residence, present or last known business address, and present or last known employer.

15. The term "identify," when used in reference to a document, means to describe the type of the document, its author(s), all recipients, the date it was drafted, edited, finalized and/or executed, where all drafts are physically located or stored, to state its title, subject line, re: line, or other heading or distinguishing marker, as appropriate to differentiate the document from all others, and to describe the contents of the document.

16. The term "state" means provide in reasonable detail all facts and information responsive to the interrogatory including, without limitation, the identification of all persons, communications and documents that relate to your response, and to provide, in a reasonable

degree of detail, the essential facts concerning the matter to be described, including the identification of persons involved, the relevant dates and places, and the form, nature and/or content of communications occurring in connection with such matter. Also, include the time period during which the events described in your response occurred and identify all persons having knowledge of the facts and information contained in your response.

17. The use of the singular form of any word includes the plural and vice versa.

18. The connective “or” includes the connective “and” and vice versa.

19. The use of the present tense includes the past and future tenses and vice versa.

20. These interrogatories are ongoing and require supplementation in accordance with 16 C.F.R. Part 1025.31(f).

### **INTERROGATORIES**

1. Please identify every individual with knowledge of the facts alleged in the Complaint and for each person identified, state the subject matter of which each person has knowledge.

#### **RESPONSE:**

2. Please identify all experts whom you expect to call as a witness in this case, and for each expert you identify, identify those documents provided to him/her and provide a statement of the facts on which the expert is expected to rely and a summary of the grounds for each opinion to which the expert is expected to testify.

#### **RESPONSE:**

3. Please state every reason why the content of Release #12-DRAFT 8/29/12 changed in Release #12-DRAFT10/3/12, including an explanation of what, if any, circumstances

prompted a revision in the draft release. Include in your response an identification of all documents that memorialize the revision of Release #12-DRAFT8/29/12.

**RESPONSE:**

4. Please state every reason why the content of Release #12-DRAFT10/3/12 changed in Release-DRAFT10/5/12, including an explanation of what, if any, circumstances prompted a revision in the draft release. Include in your response an identification of all documents that memorialize the revision of Release #12-DRAFT10/3/12.

**RESPONSE:**

5. Please set forth in detail all facts which you contend support your allegation that the Chill is a substantial product hazard under Section 15(a)(2) of the Consumer Product Safety Act.

**RESPONSE:**

6. Please set forth in detail all facts which you contend support your allegation that the Chill contains a design defect.

**RESPONSE:**

7. Please set forth in detail all facts which you contend support your allegation that the Chill's instructions and warnings are inadequate.

**RESPONSE:**

8. Please identify all persons currently or formerly employed by the Commission who reviewed, revised or otherwise had input into the instructions and warnings of the Chill that you allege to be inadequate.

**RESPONSE:**

9. Please set forth in detail all facts which you contend support your allegation that the Chill creates a substantial risk of injury to children under Section 15(c)(1) of the Federal Hazardous Substances Act.

**RESPONSE:**

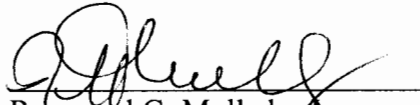
10. Please state the number of incidents involving the Chill that were known to the Commission at the time it concluded that the Chill was a substantial product hazard, had a design defect, had inadequate warnings, and created a substantial risk of injury to children.

**RESPONSE:**

December 26, 2012

Respectfully submitted,

Baby Matters LLC  
*By Counsel*



Raymond G. Mullady, Jr.

Mullady@BlankRome.com

Adrien C. Pickard

APickard@BlankRome.com

BLANK ROME, LLP

Watergate

600 New Hampshire Ave, N.W.

Washington, D.C. 20037

Tel: (202) 772-5828

Fax: (202) 572-8414

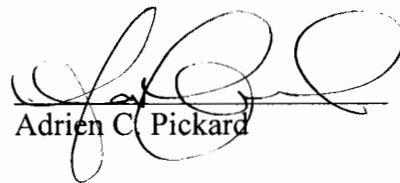
*Counsel for Respondent Baby Matters LLC*

## **CERTIFICATE OF SERVICE**

I hereby certify that on I served the foregoing was served upon the following parties and participants of record in these proceedings by mailing, postage prepaid a copy to each on this 26<sup>th</sup> day of December, 2012.

Mary B. Murphy, Esquire  
Assistant General Counsel  
Division of Compliance  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
Bethesda, MD 20814

Kelly Moore, Trial Attorney  
Complaint Counsel for  
U.S. Consumer Product Safety Commission  
Bethesda, MD 20814



Adrien C. Pickard