

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

BABY MATTERS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO THE CONSUMER PRODUCT SAFETY COMMISSION

Pursuant to 16 C.F.R. 1025.33, Baby Matters LLC (“Respondent,” or “Baby Matters”) hereby propounds the following First Requests for Production of Documents and Things to the Consumer Product Safety Commission (“the Commission”). These Requests are to be responded to in writing and you are directed to produce and permit inspection of the following documents and things in your possession, custody or control at the offices of Blank Rome, LLP, 600 New Hampshire Ave., N.W., Washington D.C. 20037, c/o Raymond G. Mullady, Jr. as at some other convenient location within thirty (30) days.

INSTRUCTIONS AND DEFINITIONS

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.
2. The term “Baby Matters” shall refer to Respondent Baby Matters LLC.
3. The term “Commission” shall have the same meaning as used in 16 C.F.R. Part 1025.3(b).

4. The term “Commissioner” shall have the same meaning as used in 16 C.F.R. Part 1025.3(c).

5. The term “Gen1” shall refer to the first generation model of the Nap Nanny[®] 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[®] 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[®] 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 “Draft Release Letters” shall refer to “Release #12-DRAFT 8/29/12,” “Release #12-DRAFT10/3/12” and “Release-DRAFT10/5/12.”

15. The term “Administrative Record” shall mean the documents relating to the allegations in the Complaint, including, but not limited to, all reports, memoranda, correspondence, medical examinations, medical reports, expert reports, analyses, safety studies and reports, engineering studies and reports and other documents or information that contributed to the Commission’s decision to file the Complaint, were considered by the Commission prior to the filing of the Complaint, and/or factored in any way into the Commission’s decision to file or serve the Complaint or any of the Draft Release Letters.

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

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documentary evidence supporting the charges in this matter, including but not limited to the documents identified on the List and Summary of Documentary Evidence, dated December 4, 2012, filed with the Complaint.

RESPONSE:

2. All documents containing or referencing any communications between the Commission and any persons, firms or corporations witnessing or investigating any of the incidents involving the Subject Products referenced in the Complaint, including but not limited to all communications between the Commission and local police, fire, rescue and other first responders, hospital and other medical personnel, and coroners' offices.

RESPONSE:

3. All documents referring or relating to Release #12-DRAFT 8/29/12.

RESPONSE:

4. All documents referring or relating to Release #12-DRAFT10/3/12.

RESPONSE:

5. All documents referring or relating to the Draft Release Letters.

RESPONSE:

6. The Administrative Record.

RESPONSE:

7. All reports of any expert expected to testify at trial in this matter and all documents and other evidence reviewed, considered or relied upon by such expert for his opinions.

RESPONSE:

8. A current curriculum vitae for each expert expected to testify at trial in this matter.

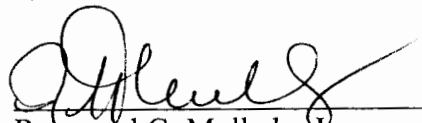
RESPONSE:

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

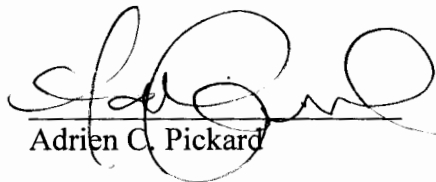
Counsel for Respondent Baby Matters, LLC

CERTIFICATE OF SERVICE

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

Mary Murphy
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