

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____)	
In the Matter of)	
)	
LEACHCO, INC.)	CPSC DOCKET NO. 22-1
)	
)	Hon. Michael G. Young
)	Presiding Officer
Respondent.)	
_____)	

COMPLAINT COUNSEL’S WITNESS LIST

In accordance with 16 C.F.R. § 1025.21(a)(11), Appendix I to Part 1025, and the Order on Prehearing Schedule dated September 14, 2022 [Dkt. 35], Complaint Counsel hereby serves its Witness List in the above-captioned action:

A. Complaint Counsel will present the following persons as witnesses in this matter:

1. Konica McMullen. As a parent of one of the infants who died while using the Podster, Ms. McMullen is expected to testify, among other things, about the victim, the victim’s physical condition at the time of his death, and the victim’s death in the Podster.
2. Erin Mannen (Expert Witness). Dr. Mannen submitted her written direct expert testimony on April 28, 2023. In that testimony, Dr. Mannen described her qualifications and experience, relevant prior work, biomechanical testing and methodology with respect to the Leachco Podster, assessment of the fatal incidents involving a Podster, and her expert opinion regarding the hazards posed by the Podster from a biomechanical perspective. Dr. Mannen is expected to amplify that testimony at trial, and Complaint Counsel has moved the Presiding Officer to permit

Dr. Mannen to do so. Complaint Counsel anticipates that amplification will include, among other things, the use of demonstratives—specifically, video clips and samples of the Podster—to illustrate and contextualize her written direct testimony. Dr. Mannen will be available at the hearing for cross-examination regarding her expert testimony by counsel for Leachco and redirect by Complaint Counsel.

3. Celestine Kish (Expert Witness). Ms. Kish submitted her written direct expert testimony on April 28, 2023 and a corrected version of that testimony on May 2, 2023. In that testimony, Ms. Kish described her qualifications and experience, relevant prior work, assessment of the fatal incidents involving a Podster, and her human factors evaluation and expert opinion regarding the Podster, including the foreseeable manners in which the Podster will be used and that its warnings are insufficient to mitigate the danger it poses. Ms. Kish is expected to amplify that testimony at trial, and Complaint Counsel has moved the Presiding Officer to permit Ms. Kish to do so. Complaint Counsel anticipates that amplification will include, among other things, the use of demonstratives—specifically, samples of the Podster and its packaging—to illustrate and contextualize her written direct testimony. Ms. Kish will be available at the hearing for cross-examination regarding her expert testimony by counsel for Leachco and redirect by Complaint Counsel.
4. Umakanth Katwa (Expert Witness). Dr. Katwa submitted his written direct expert testimony on April 28, 2023. In that testimony, Dr. Katwa described his qualifications and experience, methodology for evaluating the hazards posed by the Podster from a medical perspective, analysis of the Podster and the fatal incidents involving a Podster, and his expert opinion of the dangers posed by the Podster from a medical

perspective. Dr. Katwa will be available at the hearing for cross-examination regarding his expert testimony by counsel for Leachco and redirect by Complaint Counsel.

5. Jamie Leach. As Leachco, Inc's Vice President and Chief of Product Development, Ms. Leach is expected to testify as to all matters related to the Answer of Respondent Leachco, Inc. ("Leachco") in this matter; Leachco's responses to Complaint Counsel's discovery requests in this matter, including the responses to Interrogatories that Ms. Leach verified; Leachco's structure and operations; her background, and the Leachco Podster, including its design, development, use, sale, testing, fatal incidents involving the Podster and communications Leachco has had internally or with third parties about the Podster.

B. Complaint Counsel may present the following persons as witnesses in this matter:

1. Christopher Nguyen. Mr. Nguyen is a Program Specialist in the Small Business Ombudsman Office at CPSC. He formerly was a Compliance Officer with the Office of Compliance and Field Operations at CPSC. Mr. Nguyen may testify about communications Leachco made to CPSC in connection with CPSC's investigation of the Leachco Podster, as well as other documentary evidence received and obtained during the course of that investigation, if Leachco continues to contest the admissibility of certain exhibits.
2. John Walker. Mr. Walker is a Product Safety Investigator at CPSC. Mr. Walker may testify concerning the CPSC investigation regarding the Podster, including the CPSC in-depth investigation report bearing Task Number 160519CCC2600, which relates to the fatal incident involving a Podster in Alabama, if Leachco continues to contest the

admissibility of that exhibit, or if the Court does not grant Complaint Counsel's motion in limine to admit it.

3. Christopher Palmer. Mr. Palmer is a Product Safety Investigator at CPSC. Mr. Palmer may testify concerning the CPSC investigation regarding the Podster, including the CPSC in-depth investigation report bearing Task Number 200917CCC3888, which relates to the fatal incident involving a Podster in Texas, if Leachco continues to contest the admissibility of that exhibit, or if the Court does not grant Complaint Counsel's motion in limine to admit it.
4. Elizabeth Phillips. Ms. Phillips is a Product Safety Investigator at CPSC. Ms. Phillips may testify concerning the CPSC investigation regarding the Podster, including the CPSC in-depth investigation report bearing Task Number 220916HCC1454 and the associated MECAPS report, which relate to the fatal incident involving a Podster in Virginia, if Leachco continues to contest the admissibility of that exhibit, or if the Court does not grant Complaint Counsel's motion in limine to admit it.

Dated this 14th day of July, 2023

Respectfully submitted,

/s/ Brett Ruff

Gregory M. Reyes, Supervisory Attorney
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