

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____))
In the Matter of))
))
BRITAX CHILD SAFETY, INC.) CPSC DOCKET NO.: 18-1
))
))
Respondent.))
_____)

**COMPLAINT COUNSEL'S
FIRST SET OF INTERROGATORIES TO RESPONDENT**

Pursuant to 16 C.F.R. § 1025.32, Complaint Counsel hereby requests that Respondent Britax Child Safety, Inc., serve upon Complaint Counsel, within thirty (30) days, written answers, under oath, to each of the interrogatories set forth below.

DEFINITIONS

1. "You," "your," "Respondent," and "Britax," means the Respondent to whom these discovery requests are directed (including if previously known under different names), including all past and present officers, directors, representatives, agents, and employees of the Respondent, all other past and present persons acting or purporting to act on Respondent's behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to Respondent), and all past and present parents, subsidiaries, divisions, or branches of Respondent, including without limitation, B.O.B. Trailers, Inc.

2. "B.O.B." means B.O.B. Trailers, Inc. (including if previously known under different names), including all past and present officers, directors, representatives,

agents, and employees of B.O.B. Trailers, Inc., all other past and present persons acting or purporting to act on B.O.B. Trailers, Inc.'s behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to B.O.B. Trailers, Inc.), and all past and present parents, subsidiaries, divisions, or branches of B.O.B. Trailers, Inc.

3. "Person" means any natural person, entity, group, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental and whether foreign or domestic.

4. "Documents" mean the original and any nonidentical copy of any written, printed, reproduced, graphic, photographic, electronic, audio, visual, or computer records, however produced or reproduced, of any kind or description, whether prepared by you or by any other Person, that is in your possession, custody, or control, including, but not limited to, the following: electronic mail; electronically stored information; papers; notes; books; letters; telecopies; facsimiles; photographs; motion pictures; videotapes; video disks; audio recordings; drawings; schematics; manuals; blueprints; intra- and interoffice Communications; transcripts; minutes; reports; audio recordings; affidavits; statements; pleadings; summaries; indices; analyses; evaluations; agreements; calendars; appointment books; diaries; telephone logs; tabulations; charts; graphs; data sheets; computer tapes, disks, cards, printouts, and programs; microfilm; microfiche; social media Communications, including, but not limited to, information posted on or transmitted through social networking platforms (*e.g.*, LinkedIn and Facebook), digital file-sharing services (*e.g.*, Flickr), blogs and microblogs (*e.g.*, Twitter); instant messages, customer

reviews and/or comments posted on the your website(s) relating to the Strollers; and all drafts, alterations, and/or amendments of or to any of the foregoing. The term includes all drafts of a Document and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term also includes information stored in or accessible through computer or other information retrieval systems (including computer archives or backup systems), together with instructions and all other materials necessary to use or interpret such data compilations.

5. “Relating to” or “related to” means consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing, or bearing any logical or factual connection with the matter discussed.

6. “Identify” or “identity” when used with respect to an individual means to provide the individual’s present or last known name, residential address, telephone number, occupation, job or position, job title(s), employer, employer department and/or subject area in which the individual works, business affiliation, and business or employment address, and the individual’s relationships or associations, if any, to the Respondent.

7. “Identify” or “identity” when used with respect to a business, entity, building, or place means the present or last known name, address, and telephone number, and all former names, of that business, entity, building, or place, its state of incorporation, registration, or organization, the identity and address of its registered agent in each state

where it is present and doing business or has a place of business, its present officers, directors, and shareholders, and its relationship, if any, to the Respondent.

8. “Identify” or “identity” when used with respect to a Document means the name or title of the document, a description of the Document or record including its date of preparation and transmission, the author, sender, and recipient, a summary of the subject matter, and the identity of the Person who currently has custody of, possession of, or control over the Document. You may also identify a Document by providing a complete and legible copy thereof, and by stating that you have done so.

9. “Identify” when used with respect to a communication means to describe in detail the nature and content of the communication, state the date of the communication, identify all Persons to and from whom the communication was made, and identify all Persons hearing, witnessing, and/or present during the communication.

10. “Communications” means any disclosure, transfer, or exchange of information or opinion, however made, including but not limited to, e-mails, voice mails, fax, memoranda, inquiries, reports, claims, and complaints.

11. “Strollers” means single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism that are listed in the Complaint in CPSC Docket 18-1 filed on February 16, 2018, including without limitation: the Revolution, Sport Utility Stroller, Ironman, SUS Duallie, Ironman Duallie, Revolution SE, Revolution CE, Stroller Strides, Revolution SE Duallie, Stroller Strides Duallie, Revolution Pro, Revolution Pro Duallie, Revolution Flex, Revolution SE Plus, Revolution Flex Duallie, and Revolution SE Duallie Plus model strollers.

12. “QR Mechanism” means the removable quick release mechanism that is used to secure or remove the removable front wheel of the Strollers.
13. “Manufacture” means to “manufacture, produce, or assemble,” as defined in 15 U.S.C. § 2052(a)(10).
14. “Distribute” means to deliver, sell, give, allot, or otherwise provide in commerce, and shall include giving away free samples and promotional items.
15. “Complaint” shall mean the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 18-1.
16. “Answer” shall mean the Answer and Defenses, and any amendments to the Answer and Defenses, of Respondent Britax Child Safety, Inc., filed in this action.
17. “Interrogatories” shall mean Complaint Counsel’s First Set of Interrogatories to Respondent Britax Child Safety, Inc., served upon the Respondent.
18. “Requests for Production” shall mean Complaint Counsel’s First Set of Requests for Production of Documents or Things to Respondent Britax Child Safety, Inc., served upon the Respondent.
19. “Hearing” shall mean any hearing conducted in this matter pursuant to 16 C.F.R. § 1025.41 *et seq.*
20. “Test” shall mean any examination, inspection, analysis, results, or other assessment of the Strollers, or any components of the Strollers.
21. “Retailer” shall mean any Person who sold the Strollers to consumers in the United States.
22. “ASTM” shall mean ASTM International, formerly known as the American Society for Testing and Materials, of West Conshohocken, PA, including all

past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on ASTM's behalf.

INSTRUCTIONS

A. Each interrogatory and every subpart thereof shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated. If objection is made to only part of an interrogatory, that part shall be specified. An answer should not be supplied solely by reference to the answer to another interrogatory or subpart unless the answer is completely identical to the answer to which reference is made.

B. The answers shall be signed by the Person giving them, and the objections, if any, shall be signed by the Person or attorney making them. When a complete answer to a particular interrogatory is not possible after exercising the required diligence, the interrogatory shall be answered to the extent possible and a statement shall be made indicating the reasons only a partial answer is given, stating the information or knowledge you have concerning the unanswered portion or unproduced Documents, and describing your efforts to secure the unknown information or unproduced Documents.

C. Identify each Person who assisted or participated in preparing and/or supplying any of the information given in a response to or relied upon in preparing the answers to these interrogatories.

D. If precise information cannot be supplied in response to any interrogatory, an estimate (identified as such) and an explanation of the basis for the estimate shall be supplied.

E. The words “and” and “or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The word “including” shall be construed to mean without limitation. The words “any” and “all” shall be construed so as to make the request inclusive rather than exclusive.

F. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, so as to make all definitions and discovery requests inclusive rather than exclusive.

G. The singular shall include the plural, and vice versa.

H. These interrogatories shall be read, interpreted, and answered in accordance with these instructions and the definitions set forth herein. If the meaning of any word or phrase used herein is unclear, the Respondent’ attorneys are requested to contact Complaint Counsel for the purpose of resolving any ambiguity. If any interrogatory cannot be answered in full after exercising the required diligence, it shall be answered to the extent possible with a full statement of all efforts to fully answer and of all reasons a full answer cannot be made.

I. If it is claimed that the attorney-client privilege or any other privilege is applicable to any Document sought by these discovery requests, specify the privilege claimed and the factual basis you contend supports the assertion of the privilege, and identify the Document as follows:

- i) State the date, nature, and subject matter of the Document;
- ii) Identify each author of the Document;
- iii) Identify each preparer of the Document;

- iv) Identify each Person who is an addressee or an intended recipient of the Document;
- v) Identify each Person from whom the Document was received;
- vi) State the present location of the Document and all copies thereof;
- vii) Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
- viii) State the number of pages, attachments, appendices, and exhibits; and
- ix) Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted.

J. For any Communication with respect to which a privilege is asserted, identify the Persons or entities among whom the Communication took place, the date of the Communication, and the subject.

K. In the event that any Document sought by these discovery requests has been destroyed, discarded, or otherwise disposed of, that Document is to be identified as completely as possible, by including, without limitation, the following information:

- i) Each author of the Document;
- ii) Each preparer of the Document;
- iii) Each addressee or intended recipient of the Document;
- iv) Each Person who received the Document;
- v) The date of the Document;
- vi) The subject matter of the Document;
- vii) The reason for disposal of the Document;

- viii) Each Person who authorized disposal of the Document; and
- ix) Each Person who disposed of the Document.

L. If any Document was, but is no longer, in your possession, custody, or control, provide the following information:

- i) State the disposition of the Document;
- ii) State the date such disposition was made;
- iii) Identify the present custodian of the Document, or, if the Document no longer exists, so state;
- iv) Identify the Person(s) who made the decision regarding the disposition of the Document; and
- v) State the reasons for the disposition and describe the Document and the contents of the Document, including the title, author, position or title of the author, addressee, position or title of the addressee, whether indicated or blind copies were made, date, subject matter, number of pages, attachments or appendices, and all Persons to whom the Document was distributed, shown, or explained.

M. Pursuant to 16 C.F.R. § 1025.31, the Respondent is under a continuing duty to supplement its responses to these discovery requests without further request from Complaint Counsel. Where the Respondent has responded to a discovery request with a response that was complete when made, Respondent is under a duty to supplement that response to include information later obtained.

INTERROGATORIES

INTERROGATORY NO. 1

Identify all Persons who assisted in the preparation of, or who provided information or Documents used in the preparation of, the responses to these Interrogatories, and all Persons who participated in producing the Documents in response to the Requests for Production.

INTERROGATORY NO. 2

Identify each Person who you believe possesses any knowledge relating to the front wheel of the Strollers detaching during use or the design and operation of the QR Mechanism, including without limitation Persons with knowledge relating to the potential for the QR Mechanism to fail to secure the front wheel to the fork of the Strollers, and describe with specificity the knowledge of each Person identified.

INTERROGATORY NO. 3

Identify each Person whom you expect to call as a witness at the trial or Hearing of this matter, and for each witness, state or provide the following information:

- a) The subject matter on which the witness is expected to testify; and
- b) The substance of the facts to which the witness is expected to testify.

INTERROGATORY NO. 4

Identify each Person whom you expect to call as an expert witness at the trial or Hearing of this matter, and for each such expert witness, state or provide the following information:

- a) The subject matter on which the expert is expected to testify;

- b) The substance of the facts and opinions to which the expert is expected to testify; and
- c) A summary of the grounds for each opinion.

INTERROGATORY NO. 5

Identify each Person who participated in the design and development of the Strollers, including any Person who participated in developing the QR Mechanism or front wheel assembly. For each Person, indicate the time period of the work and describe the Person's responsibilities, role and contribution.

INTERROGATORY NO. 6

Identify each Person involved in creating, designing, and manufacturing any and all versions or iterations of the packaging, labels, warnings, and instructions that accompanied the Strollers, including any Person with knowledge of changes made at any time to the packaging, labels, warnings, and instructions that accompanied the Strollers. For each Person, indicate the time period of the work, and describe the person's responsibilities, role, and contribution.

INTERROGATORY NO. 7

Identify each Person who participated in the marketing, advertising, and/or promotion of the Strollers from 1997 through the present, in any form or through any media. For each Person, indicate the time period of the work, and describe the Person's responsibilities, role, and contribution.

INTERROGATORY NO. 8

Identify any opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, whether formal or informal, that discuss or refer to

the effectiveness of any warnings that have been placed on the Strollers since the introduction of the product into commerce, as that evaluation relates to:

- a) the front wheel of the Strollers detaching;
- b) the QR Mechanism;
- c) the Communication of the hazards of the front wheel of the Strollers detaching; or
- d) the Communication of the hazards related to the QR Mechanism.

INTERROGATORY NO. 9

Identify any opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, whether formal or informal, that discuss or refer to the QR Mechanism, the dropout fork assembly, or front wheel detachments on the Strollers.

INTERROGATORY NO. 10

Identify all Tests performed on the Strollers related to the QR Mechanism, the front wheel assembly, or any mandatory or voluntary safety standard. As part of your response for each Test:

- a) Identify the specific product or products tested;
- b) Describe each Test including the date of the Test and the standard or protocols used;
- c) Identify all Persons who participated in setting up and conducting the Test;

- d) Describe all information, directions, materials, and requests that you or any other Britax or B.O.B. employee provided to the Person conducting the Test;
- e) Describe and explain the results of the Test, including all observations and conclusions;
- f) Identify all Persons who participated in evaluating the test results; and
- g) Describe any changes to the Strollers following each Test.

INTERROGATORY NO. 11

State the total number of injuries reported to have occurred as a result of the front wheel of the Strollers detaching during use.

INTERROGATORY NO. 12

Identify each return, RMA, claim, warranty claim, complaint, inquiry, or report of incidents, injuries, or fatalities related to the front wheel of the Strollers detaching or the QR Mechanism. For each return, RMA, claim, warranty claim, complaint, inquiry, or report of incidents, injuries, or fatalities:

- a) Provide the name, address, telephone number, e-mail address, and any other identifying information of the claimant;
- b) Identify the date Britax first received verbal or written information concerning the return, RMA, claim, warranty claim, complaint, inquiry, or report;

- c) State the information Britax received in the return, RMA, claim, warranty claim, complaint, inquiry, or report and how you received it;
- d) State whether you or any other Person acting on behalf of Britax investigated or took other responsive steps after the initial return, RMA, claim, warranty claim, complaint, inquiry, or report, and if so, state the date and description of each investigation or other step;
- e) State whether you or any other Person acting on behalf of Britax provided any refunds, replacement parts, Strollers, or other repair or remedy, and if so, separately state the date and description of what was provided;
- f) State whether medical attention was sought or received by any Person involved in any return, RMA, claim, warranty claim, complaint, inquiry, or reports;
- g) State the age of any Person(s) involved in the incident;
- h) State the date the Stroller was purchased;
- i) State where the Stroller was purchased and who purchased it;
- j) Describe the type of packaging and warnings on the Stroller; and
- k) State whether any claims were submitted to your insurer. If so, identify the insurer; state whether the insurer affirmed that coverage existed for the claim; and state whether the insurer denied coverage or covered the claim and if so, the sum paid.

INTERROGATORY NO. 13

Separately state, by model and by year, the number of returns, RMAs, claims, warranty claims, complaints, inquiries, or reports of incidents, injuries, or fatalities related to front wheel detachments involving any jogging stroller you imported with a “thru-axle” front wheel fork assembly.

INTERROGATORY NO. 14

Identify each Person with knowledge of any claims, lawsuits, or alternative dispute resolution proceedings related to the front wheel of the Strollers detaching or the QR Mechanism.

INTERROGATORY NO. 15

Identify each Person with knowledge of the transfer, integration, retention, or other disposition of any information or Documents in B.O.B.’s possession, custody, or control before, during, and following B.O.B.’s merger with and into Britax, including Persons with such knowledge related to any return, RMA, claim, warranty claim, complaint, inquiry, or report of incidents, injuries, or fatalities related to the front wheel of the Strollers detaching or the QR Mechanism.

INTERROGATORY NO. 16

Describe the transfer, integration, retention, current location, or other disposition of all information or Documents in B.O.B.’s possession, custody, or control before, during, and following B.O.B.’s merger with and into Britax, including information or Documents related to any return, RMA, claim, warranty claim, complaint, inquiry, or report of incidents, injuries, or fatalities related to the front wheel of the Strollers detaching or the QR Mechanism.

INTERROGATORY NO. 17

Separately state, by model and by year, the total number of Strollers imported or distributed in commerce by B.O.B. and Britax.

INTERROGATORY NO. 18

Separately state the total number of Strollers in Britax's possession and the last date that Britax distributed any of the Strollers in commerce.

INTERROGATORY NO. 19

Separately state, by model and by year, the total number of swivel wheel and fixed wheel units of the Strollers imported or distributed in commerce by Britax and B.O.B.

INTERROGATORY NO. 20

Identify each Person who has been deposed in any matter regarding the Strollers' QR Mechanism or a front wheel detachment involving the Strollers, and provide the date of the deposition, caption of the matter, and the matter's disposition.

INTERROGATORY NO. 21

Identify each Person with knowledge of Britax's involvement in the development of ASTM Standard F833 for Carriages and Strollers. For each Person, indicate the time period of the work, and describe the Person's responsibilities, role, and contribution.

INTERROGATORY NO. 22

Identify and describe any information, including any Documents or Communications, that you provided to ASTM or to any ASTM committee or subcommittee regarding incidents involving a Stroller's front wheel detaching or a failure

of the QR Mechanism on the front wheel of the Stroller, including the date(s) on which such information was provided to ASTM or any ASTM committee or subcommittee.

INTERROGATORY NO. 23

State whether Respondent has provided to Commission staff all Documents and Communications, referred to by Respondent as the B.O.B. “legacy” records or Documents, which relate to the QR Mechanism, front fork assembly, or front wheel detachments.

INTERROGATORY NO. 24

Separately state the current location or disposition of any Document or Communication identified by Respondent as B.O.B. “legacy” records or Documents.

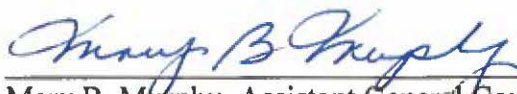
INTERROGATORY NO. 25

State whether B.O.B. or Britax imported a jogging stroller designed with a dropout fork assembly and QR Mechanism under the Revolution SE Demo model name.

If your answer is in the affirmative, provide the following information:

- a) The dates between which B.O.B. or Britax imported the Revolution SE Demo jogging strollers;
- b) The number of Revolution SE Demo jogging strollers imported by B.O.B. or Britax;
- c) Identify each return, RMA, claim, warranty claim, complaint, inquiry, or report of incidents, injuries, or fatalities related to the front wheel of the Revolution SE Demo jogging strollers detaching or the QR Mechanism;

- d) Describe any differences in the design or operation of the QR Mechanism of the Strollers and the Revolution SE Demo jogging strollers;
- e) Describe any differences in the warnings and instructions provided with the Strollers and those provided with the Revolution SE Demo jogging strollers; and
- f) Describe any differences in the advertising or marketing of the Strollers and the Revolution SE Demo jogging strollers.


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Complaint Counsel for
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Bethesda, MD 20814

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2018, I served Complaint Counsel's First Set of Interrogatories to Respondent upon all parties and participants of record in these proceedings by mailing, postage prepaid, a copy to each and emailing a courtesy copy as follows, unless otherwise indicated below:

Service by Hand Delivery and Email to the Secretary:

Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: amills@cpsc.gov

Service by Hand Delivery and Email to the Presiding Officer:

Presiding Officer
c/o Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: amills@cpsc.gov

Service by U.S. Mail and Email to Counsel for Respondent:

Timothy L. Mullin, Jr.
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A handwritten signature in blue ink, reading "Mary B. Murphy". The signature is written in a cursive style with a horizontal line underneath it.

Mary B. Murphy, Assistant General Counsel
Complaint Counsel for
U.S. Consumer Product Safety Commission