

BEASLEY ALLEN APPLAUDS THE RECALL REANNOUNCEMENT OF THE DANGEROUS ROCK 'N PLAY SLEEPER AFTER ADDITIONAL INFANT DEATHS

Firm lawyers represent 4.7 million consumers in national litigation over the companies' false marketing claims that the Rock 'n Play Sleeper was safe.

Montgomery, Ala. (January 10, 2023) – Beasley Allen applauds the Consumer Product Safety Commission's (CPSC's) reannouncement of the recall of Fischer-Price's wildly successful Rock 'n Play Sleeper on Jan. 9, 2023, citing additional infant deaths in the product since the recall was first announced on April 12, 2019.

"The reannouncement of the Rock 'n Play Sleeper recall nearly four years after the first one confirms the first recall was hugely ineffective," said Beasley Allen attorney Demet Basar. "The first recall failed because of Mattel's lack of adequate outreach and incentives to participate. The vast majority of consumers who unwittingly bought these potentially deadly products could only get vouchers for Fisher-Price toys that cost a fraction of what they paid for the Sleeper."

At the time of the initial recall, Fisher-Price admitted it was aware of 32 infant deaths since the Rock 'n Play Sleeper's introduction to the market in 2009. The recall reannouncement reports that, since the recall, approximately 70 additional infant deaths have been reported, which includes at least eight fatalities that were reported to have occurred since April 2019. Approximately 100 deaths have reportedly occurred while infants were in the products. It is now illegal to sell the Rock 'n Play Sleepers and any other inclined sleep products.

In addition to Basar, Beasley Allen attorneys James Eubank and Paul Evans represent plaintiffs seeking to vindicate the rights of purchasers and owners of 4.7 million Rock 'n Play Sleepers in a national class action litigation. The plaintiffs claim the defendants falsely marketed the Sleeper as safe and suitable for infant sleep. Basar is lead counsel in the national litigation. In addition to this multidistrict litigation, Fisher-Price and Mattel were also defendants in more than 30 wrongful death suits brought by parents of infants who died in the Rock 'n Play Sleeper, approximately 15 of which reportedly remain pending.

In a statement issued along with the reannouncement of the recall, CPSC Commissioner Rich Trumka, Jr. condemned the recall, stating that "[c]ompanies save money when people do not participate in their recalls. When that happens, dangerous products stay in homes. We have seen that lead to deaths. The only remedy I would have supported was a full refund to all customers, regardless of the age of the product."

Trumka, who owned a Rock 'n Play Sleeper that his son used, threw away the product rather than participate in the recall for a product voucher that might take months to arrive. Commissioner Trumka further criticized the so-called "Gag Rule," which prevents the CPSC from sharing critical information with the public about dangerous products until they first seek permission from the product's manufacturer, noting that the Gag Rule currently prevents the CPSC from disclosing information related to the number of Sleepers still in homes and nurseries today.

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In June 2021, the House Committee on Oversight and Reform held a hearing at which Mattel CEO Ynon Kreiz and Fisher-Price's top executive, Chuck Scothon, admitted more than 90 infants have died in connection with the Rock 'n Play Sleeper. The House Committee issued a staff report finding that Fisher-Price failed to ensure the Rock 'n Play was safe, ignored warnings that it was dangerous, and marketed it for overnight use despite the risks. The report further noted that the CPSC had inadequate enforcement capabilities to address the safety issues, even after alarms were raised at the CPSC due to the reported deaths, citing "grave flaws in the U.S. consumer product safety system," including that manufacturers are allowed to "police themselves." Congresswoman Carolyn J. Maloney, who led the committee's investigation, noted at the hearing that "[t]his is a national scandal," "[i]t is breathtakingly irresponsible," and "[i]t is corporate conduct that cannot be tolerated and has to change in the future."

"Tragically, there are now eight more reported infant deaths because so many Rock 'n Plays remained in people's hands as a result of this failed recall," Basar said. "The goal of our nationwide class action is to make consumers whole for purchasing these products as a result of the defendants' decade-long misleading marketing of the Rock 'n Play Sleeper as safe for infant sleep."

Beasley Allen attorneys are preparing for the first of the liability bellwether trials on behalf of New York consumers, scheduled for Spring 2024.

The case is In re: Rock 'n Play Sleeper Marketing, Sales Practices, and Products Liability Litigation, No. 1:19-mdl-2903. It is consolidated in the U.S. District Court for the Western Division for New York.

Resources:

A copy of the reannouncement can be viewed at <https://www.cpsc.gov/Recalls/2023/Fisher-Price-Reannounces-Recall-of-4-7-Million-Rock-n-Play-Sleepers-At-Least-Eight-Deaths-Occurred-After-Recall>.

A copy of Trumka's statement can be viewed at <https://www.cpsc.gov/s3fs-public/Trumka-Rock-N-Play-stmt-1923.pdf?VersionId=3j1guqVmpVlvh0suMjGYzCotGLrAtYUs>.

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