

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

March 6, 2020

Mr. Tom Gwiazdowski  
Chief Executive Officer  
Artsana USA, Inc. (d/b/a/ Chicco)  
1826 William Penn Way  
Lancaster, P.A. 17601-6711636

Dear Mr. Gwiazdowski:

I am writing to request information about the design and safety of Chicco's Lullaby Playards and about any ongoing efforts to consider a recall of the newborn lounger component. As you may know, companies like Fisher-Price and Kids II, Inc. recalled their popular Rock 'n Play and Rocking Sleepers in April 2019 after *Consumer Reports* reported that dozens of infant deaths were tied to inclined sleeper products.<sup>1</sup>

A recent lawsuit filed against Chicco in Pennsylvania alleges that the angled napper accessory of the Chicco Lullaby Playard posed a similar threat to infants. The parents of a three-month-old boy allege that he suffocated in the napper accessory of the Chicco Lullaby Dream Portable Playard after sleeping there unsupervised for 30 minutes:

In the early hours of May 3, 2017, the infant's father placed him in the Napper, which was affixed on top of the Playard. The father laid down on the couch nearby and fell asleep for approximately 30 minutes. When he awoke, he discovered that his son was not moving and did not appear to be breathing. Despite life-saving measures by the parents and medical personnel, the infant was pronounced dead later that day.<sup>2</sup>

While Chicco has changed the name of the Newborn Napper to a Newborn Lounger, there is no discussion in the marketing materials or on the website listing the product for sale regarding whether the Newborn Lounger is appropriate for newborn sleep despite its incline. It is not until Page 29 of the Lullaby Baby Product Manual that a warning appears to "NEVER

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<sup>1</sup> *Fisher-Price Rock 'n Play Sleeper Should Be Recalled, Consumer Reports Says*, Consumer Reports (Apr. 8, 2019) (online at [www.consumerreports.org/recalls/fisher-price-rock-n-play-sleeper-should-be-recalled-consumer-reports-says/](http://www.consumerreports.org/recalls/fisher-price-rock-n-play-sleeper-should-be-recalled-consumer-reports-says/)); *Kids II Recalls Inclined Sleepers Linked to Infant Deaths*, Consumer Reports (Apr. 26, 2019) (online at [www.consumerreports.org/recalls/kids-ii-inclined-sleeper-recall-rocking-sleepers-linked-with-infant-deaths/](http://www.consumerreports.org/recalls/kids-ii-inclined-sleeper-recall-rocking-sleepers-linked-with-infant-deaths/)).

<sup>2</sup> *Feldman Shepherd Files Lawsuit Against Maker of Chicco "Napper" for Infant Suffocation Death*, PR Newswire (Aug. 5, 2019) (online at [www.prnewswire.com/news-releases/feldman-shepherd-files-lawsuit-against-maker-of-chicco-napper-for-infant-suffocation-death-300896347.html](http://www.prnewswire.com/news-releases/feldman-shepherd-files-lawsuit-against-maker-of-chicco-napper-for-infant-suffocation-death-300896347.html)).

leave child unattended. You are responsible to provide adult supervision when using your napper.”<sup>3</sup>

The recall of other inclined sleeper products and the continued sale of Chicco’s angled Newborn Loungers raises serious concerns about the internal and regulatory processes for introducing new products for infants and children into the market and the marketing tactics used to sell those products.

For these reasons, the Committee requests that you produce the following documents by March 20, 2020, covering the period from January 1, 2008, to the present:

1. All organization charts showing the names and roles of Artsana or Chicco executives and employees involved with:
  - a. the design of the Newborn Lounger;
  - b. analyzing the safety of the Newborn Lounger;
  - c. monitoring and analyzing adverse events associated with the Newborn Lounger;
  - d. the initial launch of the Lullaby Playard; and
  - e. marketing the Lullaby Playard, either to consumers or retailers;
2. All documents and communications related to any discussions with internal or external doctors, scientists, consultants, or experts regarding the safety or design of the Newborn Lounger;
3. All documents and communications related to marketing strategy for the Lullaby Playard, including any internal communications or external communications with any third parties;
4. All draft and final marketing materials for the Lullaby Playard directed towards consumers or retailers, including any internal comments on drafts;
5. All documents and communications related to potential or actual injuries associated with the Lullaby Playard, including but not limited to injuries or deaths resulting from falls, suffocation, or strangulation;
6. All data related to serious injuries or deaths resulting from any Artsana or Chicco product marketed for children or infants;
7. All documents and communications related to substantial risk of injury or unreasonable risk of serious injury or death associated with the Lullaby Playard,

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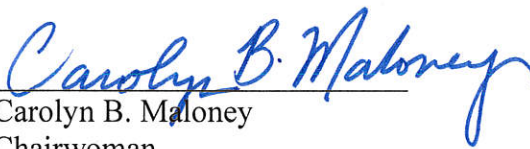
<sup>3</sup> *Lullaby Baby 3-Stage Portable Playard Owner’s Manual*, Chicco (Jan. 2019) (online at [www.chiccousa.com/on/demandware.static/-/Sites-chicco\\_catalog/default/dw646b4402/images/products/Manuals/lullaby/chicco-lullaby-baby-instruction-manual.pdf](http://www.chiccousa.com/on/demandware.static/-/Sites-chicco_catalog/default/dw646b4402/images/products/Manuals/lullaby/chicco-lullaby-baby-instruction-manual.pdf)) (the Product Manual continues to refer to the Newborn Lounger component as a “napper”).

including but not limited to documents or communications referring or relating to whether information known to Artsana or Chicco triggered mandatory or voluntary reporting obligations to the Consumer Product Safety Commission (CPSC) or other similarly situated government agency or entity;

8. All communications with or submissions to the CPSC referring or relating to the Lullaby Playard;
9. All documents and communications related to revenue or profits associated with the Lullaby Playard, including any estimates, projections, or return on investment calculations; and
10. Documents sufficient to show policies and procedures that Artsana and Chicco use to test consumer products for infant safety, including prior to releasing a product and after receiving adverse event information.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,

  
Carolyn B. Maloney  
Chairwoman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

## Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.