

Fisher-Price Rock'n Play Sleeper Toy Responsible for 32 Infant Deaths; Product Liability Lawsuits Ensur

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Just last month, Fisher-Price issued a recall of its [Rock'n Play baby sleeper toy](#) after several claims emerged about the potential hazards it posed to infants. Allegedly, 32 infants across the United States have been killed as a result of the sleeper product, resulting in FP recalling 4.7 million Rock'n Plays and offering consumers full refunds. Two federal class-action lawsuits have been filed against both Fisher-Price and its parent company Mattel, alleging defective and dangerous design and negligence.

According to the Consumer Product Safety Commission (CPSC), the primary hazard of the Rock 'n Play is, "infants [rolling] from their back to their stomach or side while unrestrained, or under other circumstances." The CPSC has also noted that there were 10 infant deaths reported between 2015 and 2018. After this announcement, Fisher-Price released a warning to parents to avoid placing infants with rollover capabilities in the sleepers. Since their warning, 32 total product-related deaths have been reported, indicating that Fisher-Price and Mattel have been aware of the dangers of the product but did not make an effort to correct its safety defects.

On April 9, the American Academy of Pediatrics (AAP) called on the CPSC to immediately issue a recall of the Rock 'n Play Sleeper, indicating that the product fails to meet the AAP's recommendations for a safe sleep environment for any baby. The AAP claims, "infants should always sleep on their back, on a separate, flat and firm sleep surface without any bumpers or bedding." The AAP has also claimed that infants are at risk of rolling into an unsafe position, rendering them incapable of moving, which could lead to strangulation or suffocation.

On April 12, 2019, the toy was officially recalled, but once the official recall announcement was made, Mattel continued to defend the safety of the Rock 'n Play sleeper. Mattel released a

statement claiming that the reported deaths could be attributed to consumers incorrectly using the product. Among a long list of warnings, Mattel and Fisher-Price instructed consumers to create a safe sleep environment for infants by:

Always place sleeping infants on their backs

Do not allow the child to use the product after they are 3 months old, or have the ability to roll over

Always use the 3-point child harness

Never add blankets, pillows, stuffed toys, or other similar items to the sleeper

However, despite these warnings, several of the reported deaths aside from asphyxiation have supposedly occurred while consumers were correctly using the product with infants under 3 months of age.

Class Action Lawsuits for Defective Design

Both of the aforementioned class action lawsuits have been filed in the U.S. District Court in Buffalo, where Fisher-Price is located.

In one suit filed by Cassandra Mulvey against Fisher Price and Mattel, she claims that the product's marketing was "dangerously false and misleading, as the product is not safe for all-night or prolonged sleep for infants." The lawsuit goes on to state that the angle that children would be resting in the sleeper "increases the infant's risk of developing flat head (plagiocephaly) and twisted neck (torticollis) syndromes, conditions that often require babies to wear expensive head-molding helmets and undergo physical therapy."

Another suit was filed by Samantha Drover-Mundy and Zachary Mundy, a Delaware couple who lost their 12-week-old daughter after spending a few minutes in a Rock 'n Play sleeper back in September of 2018. The suit claims that "the Rock 'n Play's defective design also causes injuries... which require costly medical treatment and can cause life-long damage, including permanent deformities and developmental delays." The Mundys' also claimed Amazon.com (the vendor they purchased the product from) as a defendant in their suit.

In the Mundys' suit, they claimed that both Fisher-Price and Mattel disregarded the AAP's recommendations for appropriate infant sleep environments. They also alleged that the defendants lobbied for the CPSC to allow them to avoid regulations that would have kept the product from going on the market.

How The Experts Weigh In

These class action suits could benefit experts who parse out liability and causation due to the variety of disputes regarding product safety, as well as proper product use and product

marketing.

Pediatric experts could testify on what constitutes a safe and proper sleeping environment for infants up to 3 months and beyond. Sleep consultants could speak on the general sleeping habits of infants and whether these are conducive to the product itself. Experts in biomechanics could opine on how the infants' injuries occurred while using the product and possibly how the injuries could have been prevented in the first place. Ergonomic experts can speak to what a reasonable individual would have perceived and done under the circumstances. All this expertise could then apply to the parents' expectations when placing the infant into the sleeper or to the child's response while they are using the product.

When [determining product liability](#), consumer product safety experts as well as product design and engineering experts and product marketing gurus could determine whether or not the plaintiffs' claims regarding dangerous and defective design are valid. Product safety experts will investigate whether the product was adequately tested before it was initial launch, and then determine whether the product was safe as it was sold. Product design and engineering experts could then analyze the sleeper's design and establish whether it meets the necessary safety regulations for cribs, cradles, and bassinets. Finally product marketing experts could speak on whether the warning labels sufficiently detailed the proper use of the product and identified all the possible risks, such as infant death.

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Marc Weinberg, Esq, is a partner of Saffren & Weinberg located in Jenkintown, PA, with main areas of practice in personal injury and employment litigation. In addition to these, he also specializes in wrongful termination, social security and disability law, homeowners claims, and property loss. His extensive trial experience has led him to try cases to verdict Philadelphia, Bucks County, Montgomery County, and Delaware counties.

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