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John Coletti, OSB No.942740
Email: john@paulsoncoletti.com
PAULSON COLETTI Trial Attorneys PC
1022 NW Marshall, Ste. 450
Portland, OR 97209
Tel: (503) 226.6361
Fax: (503) 226.6276

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Attorneys for Plaintiff Estate of Matteo Kuzma,
by and through its Personal Representative Jonathan Kuzma

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ESTATE OF MATTEO KUZMA, by and
through its Personal Representative Jonathan
Kuzma,

Portland

Plaintiff,

vs.

AMBY BABY USA LLC; AMBY LLC; and
AMBY BABY INC.,

Defendants.

Case No. CV '10 - 281 - BR

COMPLAINT AND DEMAND FOR
JURY TRIAL - Personal Injury Action
Based Upon Diversity of Citizenship
(28 USC § 1332)

Demand for Jury Trial

Parties and Jurisdiction

1.

Plaintiff is a citizen of the state of Oregon.

2.

Defendants are foreign corporations with their principle places of business outside of the state of Oregon. The matter in controversy exceeds, exclusive of interest and costs, sums specified by 28 USC § 1332.

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First Claim for Relief

Negligence

3.

At all times mentioned, Jonathan Kuzma is the duly appointed Personal Representative for the estate of his deceased son, Matteo Kuzma, who died on August 22, 2009, at the age of 5 months.

4.

At all times mentioned, defendant Amby Baby USA LLC was conducting regular and sustained business activity within Multnomah County, Oregon, as a designer, manufacturer and distributor of baby cribs, including the hammock crib in which Matteo Kuzma died on or about August 22, 2009.

5.

At all times mentioned, defendant Amby LLC was conducting regular and sustained business activity within Multnomah County, Oregon, as a designer, manufacturer and distributor of baby cribs, including the hammock crib in which Matteo Kuzma died on or about August 22, 2009.

6.

At all times mentioned, defendant Amby Baby Inc. was conducting regular and sustained business activity within Multnomah County, Oregon, as a designer, manufacturer and distributor of baby cribs, including the hammock crib in which Matteo Kuzma died on or about August 22, 2009.

7.

At all times mentioned, the defendants will be collectively referred to as “defendants Amby.”

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8.

On or about, May 27, 2008, Matteo Kuzma's grandmother, Judith Bevilacqua, purchased an Amby Baby Crib from the defendants as a gift to Matteo's parents, Jonathan and Rebekah Kuzma.

9.

At all times mentioned, the crib in question was defective and unreasonably dangerous in one or more of the following particulars:

- (a) In that the labeling and instructions did not contain adequate warnings regarding the risk of tilting and suffocation;
- (b) In that the defendants failed to perform adequate hazard analyses and testing to ensure that the hammock would not tilt and/or allow a child to become wedged in a position where they could suffocate;
- (c) In creating a sleeping surface which is unstable and allows the hammock to tilt, placing an infant in a position where they are at risk of suffocation;
- (d) In failing to ensure that all materials utilized in construction of the hammock are sufficiently breathable to prevent suffocation in the event that the hammock tilts or a child is in a position of potential suffocation;
- (e) In failing to comply with applicable crib safety and design standards;
- (f) In failing to perform adequate hazard analyses and testing to ensure that the crib in question did not prevent a suffocation hazard to infants;
- (g) In failing to warn users prior safety complaints as well as the suffocation death in June of 2009, of a 4 month old infant utilizing the crib in question;
- (h) In that the hammock crib was designed and manufactured so as to allow side to side shifting and tilting which can cause infants to roll and become

entrapped and/or wedged against the hammock's fabric and mattress pad resulting in a suffocation hazard;

- (i) In failing to use fabric and mattress pads which prevent suffocation hazards to infants; and
- (j) In failing to appropriately warn and instruct users of the crib in the safe assembly and usage of the crib in question.

10.

As the result of the defective and unreasonably dangerous product, Matteo Kuzma suffocated and died. Prior to his death, Matteo Kuzma suffered conscious pain and suffering and his Estate has suffered Matteo Kuzma's loss of society, companionship and services, in addition to funeral expenses. To date, the Estate of Matteo Kuzma has incurred economic and non-economic damages in a reasonable amount to be determined by a jury at trial but not expected to exceed the amount of \$5 Million.

Second Claim for Relief

Negligence

11.

Plaintiff realleges paragraphs 1 through 10 above.

12.

At all times mentioned, the defendants were negligent in one or more of the following particulars:

- (a) In that the labeling and instructions did not contain adequate warnings regarding the risk of tilting and suffocation;
- (b) In that the defendants failed to perform adequate hazard analyses and testing to ensure that the hammock would not tilt and/or allow a child to become wedged in a position where they could suffocate;

- (c) In creating a sleeping surface which is unstable and allows the hammock to tilt, placing an infant in a position where they are at risk of suffocation;
- (d) In failing to ensure that all materials utilized in construction of the hammock are sufficiently breathable to prevent suffocation in the event that the hammock tilts or a child is in a position of potential suffocation;
- (e) In failing to comply with applicable crib safety and design standards;
- (f) In failing to perform adequate hazard analyses and testing to ensure that the crib in question did not prevent a suffocation hazard to infants;
- (g) In failing to warn users prior safety complaints as well as the suffocation death in June of 2009, of a 4 month old infant utilizing the crib in question;
- (h) In that the hammock crib was designed and manufactured so as to allow side to side shifting and tilting which can cause infants to roll and become entrapped and/or wedged against the hammock's fabric and mattress pad resulting in a suffocation hazard;
- (i) In failing to use fabric and mattress pads which prevent suffocation hazards to infants; and
- (j) In failing to appropriately warn and instruct users of the crib in the safe assembly and usage of the crib in question.

13.

As the result of the negligence of the defendants as alleged above, the Estate of Matteo Kuzma has suffered economic and non-economic damages as set forth above in paragraph 10.

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Third Claim for Relief

Punitive Damages Against All Defendants

14.

Plaintiff realleges paragraphs 1 through 13 above.

15.

At all times mentioned, the defendants' actions, described above, were performed with wanton disregard for the health and safety of the plaintiff and others. The defendants' actions were further performed with malice and/or reckless disregard for the rights of the plaintiff and others who used the defendants' product. Accordingly, plaintiff is entitled to punitive damages against the defendants in a reasonable amount to be determined by a jury at trial.

WHEREFORE, plaintiff prays for judgment against the defendants in a reasonable amount to be determined by a jury at trial, but not expected to exceed \$5 Million economic and non-economic damages.

DATED this 11 day of March, 2010.

PAULSON COLETTI
Trial Attorneys PC

By:  

John M. Coletti, OSB No. 942740
Of Attorneys for Plaintiff