The Hand that Truly Rocks the Cradle: A Reprise of Infant Crib Safety, Lawsuits and Regulation from 2007-2012

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The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of consumer products under the agency's jurisdiction. Deaths, injuries, and property damage from consumer product incidents cost the nation more than $900 billion annually. CPSC is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard. CPSC's work to ensure the safety of consumer products—such as toys, cribs, power tools, cigarette lighters and household chemicals—contributed to a decline in the rate of deaths and injuries associated with consumer products over the past 30 years. (Statement of purpose from the website of the Consumer Product Safety Commission or CPSC.)

1. Introduction: Child Protection and the CPSC

Few questions are as important for new parents as “where will the baby sleep”? The infant crib is one of the biggest, most expensive, and potentially most-researched purchases on the shopping list for the new arrival. After all, newborns sleep an average

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of 15-16 hours per day. What could be more important than a crib that is comfortable, attractive, and above all else, safe? Who is or should be responsible for the safety of our children?

The U.S. Consumer Product Safety Commission (CPSC) is an independent agency founded in 1972 during the Nixon administration. It is "charged with protecting the public from unreasonable risks of serious injury or death from thousands of types of consumer products." As noted by Leslie Cornell, “The CPSC has jurisdiction over more than 15,000 kinds of consumer products used in and around the home, in sports, recreation and schools.” What are the powers of the CPSC under the Consumer Product Safety Act or CPSA?

Under Section 2064(d) of the CPSA, a manufacturer, distributor, or retailer of a consumer product distributed in the United States that receives information which would reasonably support a conclusion that one of its products contains a defect that could create a “substantial product hazard” or creates an “unreasonable risk of serious injury or death” must inform the CPSC of the existence of that defect.

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3 About CPSC, U.S. CONSUMER PROD. SAFETY COMM., http://www.cpsc.gov/about/about.html (last visited Aug. 18, 2012). In creating the CPSC, Congress acknowledged that "the complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate risks and to safeguard themselves adequately." 15 U.S.C. § 2051 (2006). The term “consumer product” is generally considered to be synonymous with a “consumer good.” The term "consumer goods" is generally understood to mean goods "used or bought for use primarily for personal, family, or household purposes." See, e.g., Aloha Lumber Corp. v. Univ. of Alaska, 994 P.2d 991, 1002 (Alaska 1999).


9 A defect may be considered to be a “fault, flaw, or irregularity that causes weakness, failure, or inadequacy in form or function.” See 16 C.F.R. § 1115.4. The regulations define the term “substantial product hazard” as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which creates a substantial risk of injury to the public. See id. § 1115.2(a). The regulations set out an explanation of what constitutes an unreasonable risk in Section 1115.6(b). It requires that the “firm” should examine “the utility of the product, the utility of the aspect of the aspect of the product that causes the risk, the level of exposure of consumers to the risk, the nature and severity of the hazard presented, and the likelihood of resulting serious injury or death.” Id. § 1115.6(b). “Serious injury” involves “grievous bodily injury,” which
The regulatory authority of the CPSC extends to a wide variety of parties typically involved in modern products liability litigation: manufacturers, distributors, retailers, and importers of consumer products. Unlike many regulatory agencies that must meet “threshold requirements” in terms of volume of business, sales, number of parties involved in the manufacturing process, etc., the CPSC maintains authority regardless of the size, number of employees or revenue of a business handling consumer products.\(^\text{10}\) The CPSC as an agency bears primary responsibility for “obtaining the recall of products or arranging for their repair, conducting research on potential product hazards, informing and educating consumers through the media, state and local governments, private organizations, and by responding to consumer inquiries.”\(^\text{11}\)

In 2008, Congress took steps to modernize the existing regulatory framework of the CPSC by enacting the Consumer Product Safety Improvement Act or the CPSIA.\(^\text{12}\) Reflecting a major change in technology and in the way that Americans (and others) receive and disseminate information relating to consumer products, the CPSIA created an “online, publicly available, and searchable database of product-related injuries. Congress created this online consumer database to promote a more preventative approach to consumer safety, wherein consumers could gather near-immediate alerts to dangerous products and risks of harm.”\(^\text{13}\) This new online database was launched in March of 2011, pursuant to the deadline set by Congress in the CPSIA.\(^\text{14}\)

The CPSIA, which became law on August 14, 2008, grants the CPSC the authority to require the manufacturer, distributor, or retailer of a consumer product that includes “injuries necessitating hospitalization, which requires actual medical or surgical treatment, fractures, lacerations requiring sutures, concussions, injuries to the eye, ear, or internal organs requiring medical treatment, and injuries necessitating absences from school or work of more than one day.” \(\text{Id.} \ § 1115.6(\text{c})\).

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poses a "substantial product hazard" to provide public notice of such hazard and to repair or replace the product, or offer a refund of the purchase price of the product. The CPSIA grants the CPSC the authority to recall products that fail to comply with other rules and regulations, standards, or product bans that the CPSC chooses to enforce under other statutes or administrative regulations. The CPSC can also order the corrective actions of a recall or the “submission of a corrective action plan covering all brands of the product that have the same design and manufacturing process” for a product that contains a defect that creates a “substantial product hazard” or an “unreasonable risk.” Importantly, the CPSC may also require repair or refund, thus removing the choice of remedy from a manufacturer. The CPSC has the authority to withdraw approval of corrective action plans it deems ineffective and to order amendments to any corrective plans when recalls do take place. Finally, and perhaps most importantly from the standpoint of the consumer, the CPSIA prohibits the sale and export of recalled products. Commenting on the importance of these key regulatory changes, Cornell notes that “While the vast majority of recalls have been, and will continue to be, ‘voluntary’ the CPSC, under the CPSIA, is in a stronger position to carry out negotiations concerning corrective action plans.”

It should be noted, however, that the CPSC does not independently test or certify products before they reach the consumer because it lacks the legal authority to do so. Moreover, the jurisdiction of the agency is limited. It does not have jurisdiction over products such as automobiles and other on-road vehicles, tires, boats, alcohol, tobacco, firearms, food, drugs, cosmetics, pesticides, and medical devices, which are all controlled by other federal regulatory agencies—most notably the Food and Drug Administration or the U.S. Department of Agriculture.

2. The Issue Is Defined

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19 Cornell, supra note 4, at 261.
From 1978 to 2012, the CPSC recorded more than 100 crib recalls and product warnings. More than half were made in the period 2007-2012.\footnote{Crib Information Center, U.S. Consumer Prod. Safety Comm., http://www.cpsc.gov/cgi-bin/cribs.aspx (last accessed August 15, 2012). A full listing of all crib recalls initiated by the CPSC may be found in Appendix I.} Defects in infant cribs have varied from detaching or badly-spaced slats, to issues relating to paints and finishes that contain harmful substances (such as lead), to problems with mattress supports, or hardware used on cribs. One of the most recent and highly-publicized controversies concerned detaching drop-sides on cribs.\footnote{For a proper framing of the debate, see Cheryl A. Falvel et al., Proposed Standards for Full-Size and Non-Full-Size Cribs under Section 104 of the Consumer Product Safety Improvement Act and Related Documents, U.S. Consumer Prod. Safety Comm. (June 30, 2010), http://www.cpsc.gov/library/foia/foia10/brief/104cribs.pdf.}

The following factual and statistical information is abstracted from a Report issued by the CPSC in 2010, titled “Full-Size Baby Cribs and Non-Full-Size Baby Cribs: Safety Standards.”\footnote{Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Final Rule, 75 Fed. Reg. 81766-01, (Dec. 28, 2010) (citing crib dimensions, numbers of manufacturers (by countries of origin), and total numbers of cribs sold in the U.S. domestic market).} The CPSC reported that a full-size crib has specific interior dimensions of approximately 28 +/- 5/8 inches (71 +/- 1.6 centimeters) in width and 523/8 +/- 5/8 inches (133 +/- 1.6 centimeters) in length and is designed to provide sleeping accommodations for an infant. CPSC staff estimated that there were 68 manufacturers or importers supplying full-size cribs to the U.S. market. Ten of these firms were domestic importers (15 percent); 42 were domestic manufacturers (62 percent); 7 were foreign manufacturers (10 percent); and 2 were foreign importers (3 percent). The Commission reported that insufficient information was available about the remaining firms to categorize them.

Based on information from a 2005 survey conducted by the American Baby Group, referenced in the Report, CPSC staff estimated that annual sales of new cribs amounted to about 2.4 million units, of which approximately 2.1 million were full-size cribs. CPSC staff further estimated that there were approximately 591 models of full-size cribs compared to approximately 81 models of non-full-size cribs. Thus, approximately 88 percent of crib models surveyed were full-size cribs.\footnote{Id.}

In contrast, a non-full-size crib may be either smaller or larger than a full-size crib, or shaped differently than the usual rectangular crib. The category of nonfull-size cribs includes what are termed as oversized, specialty, undersized, and portable cribs, but does not include any product with mesh/net/screen siding, non-rigidly constructed cribs, cradles, car beds, baby baskets, or bassinets. The CPSC standard for non-full-size cribs also did not apply to play yards, which are mesh or fabric-sided products. CPSC staff
estimated that there currently are at least 17 manufacturers or importers supplying non-full-size cribs to the U.S. market. Five of these firms were domestic importers and 10 were domestic manufacturers. As in the case of full-sized cribs, the Commission reported that insufficient information was available to determine whether the remaining firms are manufacturers or importers. In the aggregate, CPSC staff estimated that of the approximately 2.4 million cribs sold to households annually, approximately 293,000 were non-full-size cribs.\(^{25}\)

The drop-side crib, originally designed for “mom convenience,” is meant to enable the parent to lower the side of the crib and more easily lift out the baby.\(^{26}\) Drop-side cribs have been manufactured for several generations, but due to changes in design, materials, and manufacturing protocols, incidents with cribs have escalated in recent years to the point that the CPSC issued a ban on the sale of drop-side cribs as part of sweeping new standards for infant cribs that were announced in December 2010.\(^{27}\)

*Fast-Forward to 2010*

In a statement issued on December 15, 2010, Inez Tenenbaum, current Chairman of the CPSC, cited 35 infant deaths since November 2007 which had occurred when “crib components detached, disengaged, or broke, ending in unspeakable tragedy.”\(^{28}\) Following this determination, on December 28, 2010, the CPSC issued “Full-Size Baby

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25 *Id.*


Crib Safety Standards; Revocation of Requirements; Final Rules,” which laid out the new regulations. These rules cited 147 fatalities between November 1, 2007 and April 1, 2010. The rules outlawed the drop-side variety of cribs and set much more stringent manufacturing and testing guidelines. The regulations also provided for penalties for non-compliance relating to infant cribs of all sizes.

A notable and unprecedented aspect of the 2010 regulations was an expansion of the ground-breaking Consumer Products Safety Improvement Act (CPSIA) of 2008—an expansion which was specifically targeted at children’s products. The 2010 regulations required compliance not only by manufacturers and retailers, who were required to stop selling non-compliant cribs by June 28, 2011, but also by ‘places of public accommodation,’ including child care facilities, hotels, etc., which are required to replace non-compliant cribs by December 28, 2012.

What particular defects in drop-down crib led to these regulations? What was the nature of lawsuits filed in the years leading up to them? How did the various lawsuits impact upon these policy changes? The history of infant crib regulation is a primer on the application and development of strict liability in tort:

The history of infant crib regulation is a primer on the application and development of strict liability in tort: legal actions have been undertaken alleging manufacturing defects, design defects, and marketing defects, as


30 Id.


33 See Greenman v. Yuba Power Prods., Inc., 377 P.2d 897, 900-01 (Cal. 1962) (“A manufacturer is strictly liable in tort when an article he places on the market, knowing that it is to be used without inspection for defects, proves to have a defect that causes injury to a human being. Although in these cases strict liability has usually been based on the theory of an express or implied warranty running from the manufacturer to the plaintiff, the abandonment of the requirement of a contract between them, the recognition that the liability is not assumed by agreement but imposed by law, and the refusal to permit the manufacturer to define the scope of its own responsibility for defective products make clear that the liability is not one governed by the law of contract warranties but by the law of strict liability in tort.”) (Internal citations omitted) After Greenman, the American Law Institute promulgated section 402A of the Restatement (Second) of Torts, which makes sellers of defective products strictly liable as if they were manufacturers. See RESTATEMENT (SECOND) OF TORTS § 402A (1965).

well as a class action lawsuit brought by crib owners seeking monetary damages, once cribs were deemed unfit for use. It is interesting to note that it is difficult to find resolution in the public record for many of the publicized lawsuits. Presumably, most of these were settled privately, out of court. It appears that American manufacturers are


Corporations also seek to increase the difficulty in bringing class action lawsuits as another tool to strong-arm individual litigants. For example, although aimed at reducing class action lawsuit abuse, the Class Action Fairness Act of 2005 harms individuals with legitimate claims due to the increased difficulty in bringing class action lawsuits. This act makes it too difficult and expensive for a consumer to bring a class action lawsuit; thus, it is more difficult to hold the corporate giant in check. Class action suits are invaluable because they afford consumers the opportunity to bring collective claims against large corporations that would otherwise be too small to bring separately. Absent the deterrent effect of class action litigation, corporations can profit at the expense of vulnerable consumers.

Id. at 12 (providing a critique of the Class Action Fairness Act of 2005).


See Christopher Keleher, Class Inaction: U.S. Supreme Court reins in class actions, RES GESTAE 22 (May 2012) (citing Fed. R. Civ. P. 23(A)) available at http://www.querrey.com/assets/attachments/355.pdf. See also Reiter v. Sonotone Corp., 442 U.S. 330 (1979) (noting that District courts must be especially alert to identify frivolous claims brought to extort nuisance settlements and that they have broad power and discretion vested in them by Fed. Rule Civ. P. 23 with respect to matters involving the certification and management of potentially cumbersome or frivolous class actions.). Id. at 345.

For a discussion of the issue of secrecy in settlement of product liability cases, see Katherine Sullivan, Letting the Sunshine In: Ethical Implications of the Sunshine in Litigation Act, 23 GEO. J. LEGAL ETHICS 923 (2010). The author noted “A host of legislation has been introduced to curb what is increasingly seen as an abuse of confidentiality by the courts.” Id. at 923. As an example, in 1990, the State of Florida enacted the Sunshine in Litigation Act, which prohibits a court from entering an order that has the "effect of concealing a public hazard," and voids "any portion of an agreement or contract which has the purpose or effect of concealing a public hazard." FLA. STAT. § 69.081 (2009). States such as Louisiana, South Carolina, Washington, and Texas have adopted similar anti-secrecy laws. See LA. CODE CIV. PROC. ANN. art. 1426(c) (2009); S.C. R. CIV. P. 41.1; WASH. REV. CODE § 4.24.611(2) (2009); TEX. R. CIV. P. 76a. 


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smart enough to realize it would be nearly impossible to prevail against parents who have lost an infant, potentially the most heartbreaking loss of all, in the “court of public opinion.”

3. A Brief Reprise of Litigation

That has not always been the case. In a case that arose nearly a quarter-century ago in 1988, Odom v. Welsh Co., the plaintiff, Donna Odom, brought a wrongful death suit on behalf of her deceased infant son, Yan Christopher, who was asphyxiated when his neck was caught between the crib’s headboard and an unsecured slide rail. The plaintiff alleged that her son’s death had been caused by a defective screw assembly in the crib—a defect in the overall design of the crib, which was not “random and atypical,” but one which would affect all models of its kind. At trial, Donna Odom, Yan Christopher's mother, testified that when she had put the infant to bed the evening before his death she had not noticed anything unusual about the crib. Following the child’s death, police investigators found the screw intended to bolt the metal slide rod to the crib headboard under a cot in the infant's room. The grommet nut intended to secure the screw in place was found under numerous items piled in a closet

Representative Robert Wexler (D-Fla.) and Senator Herb Kohl (D-Wis.) introduced the federal Sunshine in Litigation Act of 2009. The legislation would have limited the issuance of protective orders and the sealing of cases to two specific instances: first, where the order would not restrict the disclosure of information relevant to the protection of public health or safety; second, where the public interest in the disclosure of health or safety hazards is outweighed by a substantial interest in keeping the information private. In addition, the requested protective order must be “no broader than necessary to protect the privacy interest asserted.” See Sunshine in Litigation Act of 2009, H.R. 1508, 111th Cong. (2009) (House Bill); Sunshine in Litigation Act of 2009, S. 537, 111th Cong. (2009) (Senate Bill).

Sullivan cites the settlements over products like Firestone tires, the Dalkon Shield, and drugs like Halcion and Prozac. Sullivan, infra, at 923. As to Firestone, see Keith Bradsher, S.U.V Tire Defects Were Known in '96 But Not Reported, N.Y. TIMES (June 24, 2001), http://www.nytimes.com/2001/06/24/business/suv-tire-defects-were-known-in-96-but-not-reported.html (discussing Firestone tire cases in which attorneys did not disclose an identified pattern of tire failure for fear that private lawsuits would be compromised); as to Dalkon Shield, see Morton Mintz, At Any Cost: CORPORATE GREED, WOMEN, AND THE DALKON SHIELD 246 (Pantheon 1985) (describing the tactics used by A.H. Robins for over ten years to conceal defects in its intra-uterine devices); as to issues relating to drugs, see Richard Zitrin & Carol M. Langford, The Moral Compass of the American Lawyer: Truth, Justice, Power, and Greed 187 (Random House 1999) ("The makers of the prescription drugs Zomax, Halcion, and Prozac all experienced problems with their products, and all took great pains to keep their settlements secret.").


38 In determining whether a product design is in a defective condition, the Odom court noted that a single, two-pronged test should be used: “under the consumer expectation standard prong, a defendant will be subject to liability if the plaintiff proves that the product design is in a defective condition because the product fails to perform as safely as an ordinary consumer would expect when used in an intended or reasonably foreseeable manner; under the risk-benefit standard prong, a defendant will be subject to liability if the plaintiff proves, by using relevant criteria, that the product design is in a defective condition because the benefits of the challenged design do not outweigh the risks inherent in such design.” Id. at 11-12 (citing Knitz v. Minster Machine Co., 69 Ohio St. 2d 460 (1980)).
in the infant's room. The drop side of the crib was turned toward the wall; the crib was positioned approximately a foot from the wall. A rattle device was strung from both sides of the crib. The defendant claimed that the rattle device served to secure the side rail in place in the absence of the screw unit. On the evidence presented at trial, the jury found in favor of the defendant. It determined that the crib was reasonably safe for its intended use, i.e., nothing was wrong with the screw assembly. Further, because of the change made by Yan Christopher’s mother in stringing the rattle device, the jury determined that the Odom crib was not being used in a reasonably foreseeable manner. It was apparent that the manufacturer had been able to convince the jury that a rattle device strung from the sides of the crib had been used to hold the crib together, and provided expert testimony\(^39\) about the safety and testing of the screw assembly to prove the design of the crib was sound.

Nearly twenty years later, Connie Bergey of Palm Beach, Florida filed a wrongful death lawsuit on behalf of her daughter, Serenity, against (then-defunct) Simplicity Inc. and its successor corporation,\(^40\) SFCA, as well as the retailer, Walmart. In September 2007, two-year-old Serenity was asphyxiated when her head became caught in the frame of her Simplicity crib. Two days after her death, the crib model in which she had been sleeping was one of over one-million cribs recalled by Serenity,\(^41\) raising the issue

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\(^39\) The requirement of expert testimony implicates what is called the *Daubert Rule* and entails a judge acting as a “judicial gate keeper” in order to assure that any alleged expert testimony meets a basic threshold based on real and not “junk” science. *See* Daubert v. Merrell Dow Pharm., 509 U.S. 579 (1993). The factors described in *Daubert* include: Whether a “theory or technique . . . can be (and has been) tested”; whether it "has been subjected to peer review and publication": whether, in respect to a particular technique, there is a high "known or potential rate of error" and whether there are "standards controlling the technique's operation"; and whether the theory or technique enjoys "general acceptance" within a "relevant scientific community." *See* Kumho Tire. Co., Ltd. v. Carmichael, 526 U.S. 137, 149 (1999) (citing Daubert, 509 U.S. 579, 592-594 (1993)). The Supreme Court in *Kumho Tire* also noted that the *Daubert Rule* would apply to all expert testimony—not just to evidence that is scientifically based (noting that the language made no relevant distinction between "scientific" knowledge and "technical" or "other specialized" knowledge; making clear that any such knowledge might become the subject of expert testimony; stating that the Rule applies its reliability standard to all "scientific," "technical," or "other specialized" matters within its scope; and conceding that the Court in *Daubert* referred only to "scientific" knowledge). The Court in *Daubert* referred to "scientific" testimony not as a limiting factor but "because that was the nature of the expertise" at issue.” *Kumho Tire*, 526 U.S. at 147-48 (citing Daubert, 509 U.S. at 589-590, 590 n.8).


whether there might have been a problem with the design of the crib. Bergey eventually settled out of court for an undisclosed amount.\footnote{Brian Haas, \textit{West Boca woman settles suit against crib maker, Walmart}, \textit{Sun Sentinel} (Mar. 12, 2010), http://articles.sun-sentinel.com/2010-03-12/news/fl-crib-death-settlement-20100312_1_drop-rail-crib-maker-serenity.}

The case of Carter Michael Pack also focused on alleged design defects in the crib. In \textit{Pack v. Stork Craft Manufacturing, Inc.}, filed on June 12, 2008,\footnote{See Cara Bailey, \textit{Fayette Couple Sues Cribmaker Over Son’s Death}, \textit{West Virginia Record} (July 23, 2008), http://www.wvrecord.com/news/213832-fayette-couple-sues-cribmaker-over-sons-death. The case may be accessed from the records of the Kanawah Circuit Court at 08-C-1149.} Jessica and Michael Pack filed a wrongful death suit on behalf of their son Carter, who was found asphyxiated on January 16, 2007, with his face pressed against the crib’s mattress between the railing and the crib. The Packs alleged that the death of their son was caused by a design defect involving screws that were in violation of CPSC regulations, and sought compensatory and punitive damages.\footnote{For a general discussion of issues relating to damages in product liability suits, see Henry J. Amoroso & Richard J. Hunter, Jr., \textit{Damages for Pain and Suffering and Emotional Distress in Products Liability Cases Involving Strict Liability and Negligence}, 3 \textit{Falkner L. Rev.} 277 (2012).} The plaintiffs claimed they “suffered sorrow; mental anguish; solace to include society, companionship, comfort, guidance in the kindly offices and advice of the decedent; loss of income of the decedent; services, protection, care and assistance provided by the decedent; and funeral expenses.”\footnote{Christopher Dickerson, \textit{Local lawsuit helped spur recall}, \textit{West Virginia Record} (Nov. 25, 2009), http://www.wvrecord.com/news/223316-local-lawsuit-helped-spur-crib-recall.}

As in other similar cases involving drop-down cribs, no information was readily available on the public record relating to any settlement in the case. However, the case was believed to have led to the largest crib recall to date,\footnote{Id.} in which 2.1 million Stork Craft cribs were recalled for the same or similar design defect.\footnote{See Press Release, U.S. Consumer Prod. Safety Comm’n, Infant Entrapment and Suffocation Prompts Stork Craft to Recall More Than 2.1 Million Drop-Side Cribs (Nov. 23, 2009), \textit{available at} www.cpsc.gov/cpscpuck/prerel/prhml10/10046.html. The website of the CPSC provided the following depiction of the problem that allegedly arose with the crib:}

\begin{figure}
\centering
\includegraphics[width=\textwidth]{crib-diagram.png}
\caption{Diagram of crib design defect.}
\end{figure}
defects that led to the massive crib recalls were originally thought to be the result of a manufacturing defect—defined as a “random, atypical breakdowns in the manufacturing process.” How did the various manufacturers attempt to deal with these issues?

See, e.g., Ford Motor Co. v. Pool, 688 S.W.2d 879, 881 (Tex. App. 1985), aff’d in part and rev’d in part, 715 S.W.2d 629 (Tex. 1986) in which the court stated: “[m]anufacturing defect cases involve products which are flawed, i.e., which do not conform to the manufacturer’s own specifications, and are not identical to their mass-produced siblings.” In contrast, and perhaps more appropriate in “crib cases,” the cause of an injury may be a “design defect.” In a case involving a design defect, the plaintiff must show that “the design of a product resulted in a product that was unreasonably dangerous by using either the consumer expectation test or a risk-utility analysis.” KIELY & OTTLEY, supra note 17, at 134. In most cases, this determination whether or not a plaintiff has met its evidentiary requirement (burden of proof) is a question of fact for a jury. See Korando v. Uniroyal Goodrich Tire Co., 637 N.E.2d 1020 (Ill. 1994); Cole v. Lantis Corp., 714 N.E.2d 194 (Ind. Ct. App. 1999). Pennsylvania makes a policy determination that is it for a judge, not the jury, to determine whether a product was unreasonably dangerous. See
What is known is that the manufacturer often recalled the products, offering a retrofit kit that consumers could use to repair the crib, rather than the option of a full refund. However, Amber Spitzer, whose daughter had been sleeping in a crib that fell into this category (but thankfully was not harmed), was not willing to accept those terms. She became the lead plaintiff in a 2007 class action lawsuit against Target Corp. and Simplicity. Her lawyer, Charles Kelly, alleged that the “recall (of nearly 1 million Simplicity cribs for a retrofit kit) is grossly inadequate and irresponsible…. Simplicity should be required to tell consumers to dismantle their crib, and return it for a full refund.” The same lawsuit also alleged a marketing defect—or failure to warn consumers of the potential dangers of the Simplicity cribs that had cost three children their lives, trapping seven others, and injuring 55 more. Attorney Kelly also represented the Johns family of Citrus Heights, California, whose nine-month-old son Liam had died in April 2005 when he became trapped between a detached rail and the side of the crib—another case that was likely settled out of court in favor of the plaintiffs.

**Other Potential Plaintiffs and Theories of Recovery**

Since a crib can be a major investment for many parents, some whose children have not necessarily suffered any physical injury or death, have claimed monetary damages citing “financial injury.” One plaintiff group, *O’Neil v. Simplicity, Inc.*, filed a class action lawsuit, alleging that the plaintiffs had not received the full “benefit of the bargain” for the drop-side cribs they had purchased, as they were no longer safe to use, and that the retrofit kit offered in this case, which would disable the drop side, caused an economic injury to the buyers. The lawsuit, which was combined with the case filed by Amber Spitzer, was dismissed on the grounds that because the plaintiffs’ cribs did not actually display a defect, they had, in fact, received the benefit of the bargain. The court stated: “Simply put, the O'Neil's bargained for a crib with a functioning drop side, and

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51 *O’Neil v. Simplicity, Inc.*, 553 F. Supp. 2d 1110 (D. Minn. 2008). The procedural history of the case is interesting. On September 24, 2007, Amber Spitzer, a resident of Illinois, filed a class action complaint against Simplicity, Graco, and Target in the United States District Court for the District of Minnesota. In November 2007, Spitzer withdrew the complaint and filed a first amended complaint. Simplicity and Target filed a motion to dismiss, after which Spitzer withdrew her pleading and voluntarily dismissed Target as a defendant without prejudice. On January 30, 2008, the district court granted Spitzer's motion for leave to file a second amended complaint. This pleading replaced Spitzer with the O'Neil’s as named plaintiffs. Later, the court would label this procedural history as taking “three bites of the apple” in ultimately dismissing the lawsuit with prejudice. *Id.* at 1119-1120 (stating that “The Court believes that there have been "ample opportunities to research and plead" sufficient claims here.

that is precisely what they received.”

The court continued: “The O'Neil's benefit-of-the-bargain damages theory, therefore, does not aid their cause. And, having failed to allege any cognizable damages, their claims falter.”

Other cases were based on alleged marketing defects—failure on the part of the manufacturers and/or retailers to warn about defects in the cribs and to instruct parents on the proper use of infant cribs. A wrongful death lawsuit was filed against Simplicity, SFCA, and retailer Hayneedle Inc. in Boston in January 2011 by the parents of one-year-old Landon Zimmerman. Landon was asphyxiated on January 30, 2008, when he became entrapped between his Simplicity crib’s frame and mattress. The suit alleged that Hayneedle had been grossly negligent for failing to warn Landon’s parents, Laura Zimmerman and Jeremy Fontaine, concerning the crib’s “dangerous and defective characteristics, and of the safe and proper method of assembling, using and maintaining it.” The presence of the word “assembling” is a reminder that many parents will undertake the assembly of home-use cribs as a “do-it-yourself” project, and that the

52 Id. at 1118 (noting “[A] plaintiff who purchases a [crib] that never malfunctions over its ordinary period of use cannot be said to have received less than what he bargained for when he made the purchase”) (citing In re Canon Cameras Litig., 237 F.R.D. 357, 360 (S.D.N.Y. 2006)).

53 Id.

54 Even if a product meets the manufacturing and design requirements, a product may still be “unreasonably dangerous” if the manufacturer fails to adequately warn or to provide warnings about the dangers posed by a product or if the manufacturer fails to provide adequate instructions about the safe use of a product. See, e.g., Donohue v. Phillips Petroleum Co., 866 F.2d 1008 (8th Cir. 1989). Courts in the United States “often use the term ‘failure to warn’ to include both the failure to provide adequate warnings about the dangers of a product and the failure to supply adequate instructions about a product’s use,” KIELY & OTTLEY, supra note 17, at 180 (citing Delaney v. Deere and Co., 999 P.2d 930 (Kan. 2000)). The duty to warn is most often applied to the manufacturer of a product. See Germann v. F.L. Smithe Mach. Co., 395 N.W.2d 922 (Minn. 1986).

The case of First Nat’l Bank in Albuquerque v. Nor-Am Agric. Prod. provides an excellent summary of the requirements of an adequate warning. They include:

1. A warning must indicate adequately the scope of the danger;
2. A warning must communicate reasonably the extent or seriousness of the harm that could result from the danger;
3. The physical aspects of the warning, including conspicuousness, prominence, relative size of the print, must be adequate to alert a “reasonably prudent person” to the danger;
4. A simple, direct warning, such as “Do not use...”; and
5. The means to convey the warning must be adequate.

537 P.2d 682 (N.M. Ct. App. 1975). See also Spruill v. Boyle-Midway, Inc., 308 F.2d 79 (4th Cir. 1962) (holding that a manufacturer must also be expected to anticipate the environment which is normal for the use of his product and where the environment is the home, the manufacturer must anticipate the reasonably foreseeable risks of the use of his product in such an environment).

directions can be confusing or misleading—leading to a potentially dangerous situation—and thus to an allegation of a marketing defect.  

Although Simplicity was one of the most high-profile manufacturers involved in recalls and in the tragic deaths of infants (ultimately leading to the company’s own demise), dozens of other manufacturers including LaJobi, Graco, Babi Italia, Evenflo, Delta, Pottery Barn Kids, Ethan Allen, Bassettbaby, Land of Nod, and many more all followed suit between 2007 and 2011 and recalled drop-side cribs. One manufacturer, Sorelle/C&T International, in a letter that still remains live on the Internet today, after the first round of recalls in 2009, had assured its customers, that “None of the cribs that have been produced by Sorelle/C&T International have been recalled, nor were they part of the recent recall of drop side cribs”—only to issue a recall of 170,000 cribs on May 6, 2010. The CPCS subsequently reported that Sorelle had itself documented reports of “104 incidents of drop-side and slat detachments.” Sorelle/C&T offered nothing but a repair kit for all but four older models, for which Sorelle provided a $100 credit toward the purchase of a new crib.

56 Questions relating to assembly may be seen within the larger context of “forseeability” of how the product will be used, or in this case, assembled by parents or others. See Smith v. Cent. Mining Equip. Co., 2012 U.S. Dist. LEXIS 89036, at 13 (noting that “The most important consideration in determining whether a defendant owes a duty of care is the forseeability of harm to the plaintiff and citing Lowery v. Echostar Satellite Corp., 160 P.3d 959, 964 (Okla. 2007)). See also, e.g., Tomkins v. Log Sys., Inc., 385 S.E.2d 545, 546 (Ct. App. N.C. 1989) (plaintiff alleged that defendant was negligent in connection with the manufacture and sale of the log home kit in that defendant failed to (1) use reasonable care in selecting a design safe for the use for which it was intended; (2) make reasonable tests and inspections of the prepackaged home to discover latent hazards involved in the use of the product; and (3) provide adequate instructions for erection of the home, given the defendant's representation that the log home could be built as a “do-it-yourself” project.). The basis for liability may be found in the Restatement (Second) of Torts, Section 388 (1965):

One who supplies directly or through a third person a chattel for another to use, is subject to liability to those whom the supplier should expect to use the chattel with the consent of the other or to be in the vicinity of its probable use, for bodily harm caused by the use of the chattel in the manner for which and by a person for whose use it is supplied, if the supplier (a) knows, or from facts known to him should realize, that the chattel is or is likely to be dangerous for the use for which it is supplied; (b) and has no reason to believe that those for whose use the chattel is supplied will realize its dangerous condition; and (c) fails to exercise reasonable care to inform them of its dangerous condition or of the facts which make it likely to be dangerous.

See also Vogt v. S.M. Byrne Constr., Co., 115 N.W.2d 485, 486 (Wis. 1962).


59 The first author’s son slept in a Sorelle/C&T drop-side crib beginning in September of 2002—three years before the earliest cases reported in the data base. In January of 2003, the crib’s drop-side
4. There Is Some “Good News”

The good news is that since 2011, no manufacturer has been allowed to make a
traditional drop-side crib, and no retailer or consumer has been allowed to sell one, even
second hand—or even give one away.60 As noted by the CPSC Blogger, “Beginning
June 28, 2011, all cribs manufactured and sold (including resale) must comply with new
and improved federal safety standards. The new rules, which apply to full-size and non
full-size cribs, prohibit the manufacture or sale of traditional drop-side rail cribs,
strengthen crib slats and mattress supports, improve the quality of hardware and require
more rigorous testing.”61

This good news, however, is tempered by the fact that that thousands of hotels
and child care centers were given a six month period to replace the defective, dangerous
cribs, with the generous December 28, 2012, deadline established. Recalls aimed at
consumers who still have the dangerous models in their homes will continue, even a year
after the new regulations outlawing drop-side cribs, with the latest one on CPSC’s list in
April 2012,62 though the CPSC cannot force consumers who have the defective cribs to
stop using them. This will continue to be an issue essentially of parental responsibility
and no doubt, a point of contention and perhaps future litigation.

Even given all the downside, it is encouraging from a policy perspective that the
CPSC has taken such a strong stand in making sure that manufacturers, retailers and
private and public consumers are doing everything they can to protect the smallest, most
helpless end users in our society. It should be noted, however, that the CPSC did not
issue a simple ban on the sale of all drop-side trail cribs. Why wasn’t a simple ban
enacted? The CPSC commented: “[T]hese are sweeping new safety rules that will bring
a safer generation of cribs to the marketplace in 2011. CPSC’s new crib standards
address many factors related to crib safety in addition to the drop-side rail. A crib’s
mattress support, slats, and hardware are now required to be more durable and

mechanism malfunctioned and detached, prompting calls to the manufacturer, the retailer, the CPSC, and
the authors of the book “Baby Bargains,” which had recommended the crib. A home visit was conducted
by a CPSC representative to inspect the crib in January of 2003, and C&T provided a repair kit, but the
author chose to immobilize the drop side instead for safety. The CPSC inspector noted that he had seen a
number of these problems with drop-side cribs. Since no one was injured, however, the case was just a
note in the record and potentially one of the 104 “incidents” cited by C&T/Sorelle.

60 SAFETY STANDARDS FOR FULL-SIZE BABY CRIBS AND NON-FULL-SIZE BABY CRIBS; FINAL RULE, 75 Fed. Reg.
81766-01, (Dec. 28, 2010).

61 See CPSC Blogger, Updated: The New Crib Standard: Questions and Answers, U.S. CONSUMER
PROD. SAFETY COMM’N (June 14, 2011), http://www.cpsc.gov/onsafety/2011/06/the-new-crib-standard-
questions-and-answers/.

Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards; Sold Exclusively at jcpenney (April 12
manufacturers will have to test to the new more stringent requirements to prove compliance.”63 The question remains: Will this be enough?

APPENDIX I

Product Type: Cribs

Nan Far Woodworking Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards; Sold Exclusively at jcpenney (April 12, 2012)
Dutailier Group Recalls Drop-Side Cribs Due to Entrapment and Fall Hazards (November 2, 2011)
Yu Wei Recalls Drop-Side Cribs Sold Exclusively at jcpenney Due to Entrapment and Suffocation Hazards (October 5, 2011)
Shermag Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (September 29, 2011)
Dream on Me Recalls Drop-Side Cribs Due to Entrapment, Suffocation, Laceration, and Fall Hazards (May 24, 2011)
Cribs Recalled by ducduc Due to Fall and Entrapment Hazards (April 26, 2011)
Second Infant Death Prompts Re-Announcement of Delta Enterprise "Safety Peg" Drop-Side Crib Recall to Repair (March 22, 2011)
IKEA Recalls to Repair Cribs Due to Mattress Support Collapse; Cribs Pose Entrapment and Suffocation Hazards (February 17, 2011)
WARNING: Generation 2 Worldwide "SafetyCraft" Brand Drop-Side Cribs Pose Risks of Strangulation, Suffocation (February 3, 2011)
The Land of Nod Recalls Status Furniture "Rosebud“ Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (January 26, 2011)
Bassettbaby Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (November 22, 2010)
Victory Land Group Recalls to Repair Drop-Side Cribs Sold Exclusively at Kmart Due to Entrapment, Suffocation and Fall Hazards (October 22, 2010)
Angel Line Recalls to Repair Longwood Forest Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (October 22, 2010)
Ethan Allen Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (October 22, 2010)
"Alexander Designs“ Brand Drop-Side Cribs Sold Exclusively at JCPenney Recalled for Repair Due to Entrapment, Suffocation and Fall Hazards (October 7, 2010)
Albee Baby Recalls C & T International/Sorelle Brand "Prescott“ Cribs Due to Entrapment, Suffocation and Fall Hazards (September 14, 2010)
Pottery Barn Kids Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (July 14, 2010)
Simmons Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards

63 CPSC Blogger, supra note 61.
(June 24, 2010)
Bexco Recalls to Repair Million Dollar Baby, Baby Mod and Da Vinci Brand Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (June 24, 2010)
LaJobi Recalls to Repair Bonavita, Babi Italia and ISSI Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (June 24, 2010)
Jardine Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (June 24, 2010)
Evenflo Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards (June 24, 2010)
Delta Recalls to Repair Drop-Side Cribs Due to Entrapment, Suffocation and Fall Hazards: Consumers also urged to check stabilizer bar assembly to prevent mattress support collapse (June 24, 2010)
Child Craft Drop-Side Cribs Recalled Due to Entrapment, Suffocation and Fall Hazards (June 24, 2010)
CPSC Announces Recall to Repair Child Craft Brand Stationary-Side Cribs with Dowel Due to Entrapment and Strangulation Hazards (June 24, 2010)
C&T International/Sorelle Recalls Cribs Due to Strangulation and Suffocation Hazards (May 6, 2010)
Graco-Branded Drop Side Cribs Made by LaJobi Recalled Due to Entrapment and Suffocation Hazards (April 29, 2010)
Simplicity Cribs Recalled by Retailers; Mattress-Support Collapse Can Cause Suffocation and Strangulation (April 29, 2010)
Generation 2 Worldwide and "ChildESIGNS" Drop Side Crib Brands Recalled; Three Infant Deaths Reported (February 9, 2010)
Dorel Asia Recalls To Replace Cribs; Pose Strangulation and Suffocation Hazards: One infant death reported, 10 injuries to infants (January 19, 2010)
Drop Side Cribs Recalled by Caramia Furniture Due to Fall and Entrapment Hazards (January 14, 2010)
CPSC, LaJobi Reannounce 2001 Recall of Cribs Due to Entrapment and Strangulation Hazards (December 2, 2009)
Infant Entrapment and Suffocation Prompts Stork Craft to Recall More Than 2.1 Million Drop-Side Cribs (November 23, 2009)
Simplicity Drop Side Cribs Recalled by Retailers Due to Risk of Death from Suffocation (July 2, 2009)
LaJobi Recalls Babi Italia Pinehurst and Bonavita Hudson Drop Side Cribs; Risk of Entrapment and Suffocation (June 9, 2009)
LaJobi Recalls Bonavita "Cabana" Drop Side Cribs Due To Entrapment and Strangulation Hazards (June 9, 2009)
Jardine Announces Second Recall Expansion of Cribs Sold by Babies’R’Us; Cribs Pose Entrapment and Strangulation Hazards (April 30, 2009)
SunKids Convertible Cribs Recalled by Suntech Enterprises Due to Entrapment and Suffocation Hazards (April 2, 2009)
Stork Craft Recalls More Than 500,000 Cribs; Mattress Support Bracket Failures Create Risk of Entrapment and Suffocation (January 13, 2009, Revised May 4, 2009)
Jardine Expands Recall of Cribs Sold by Babies"R"Us; Cribs Pose Entrapment and Strangulation Hazards (January 6, 2009)
Munire Recalls "Newport Rubbed Black" Cribs and Matching Furniture Due to Violation of Lead Paint Standard (December 23, 2008)
Infant Death Prompts Recall to Repair 985,000 Delta Enterprise Drop Side Cribs; Missing Safety Pegs Can Cause Entrapment and Suffocation Hazards (October 21, 2008)
Infant Death Prompts Recall To Repair 600,000 Drop Side Cribs By Delta Enterprise; Spring Peg Failure Can Cause Entrapment and Suffocation Hazards (October 21, 2008)
Infant Death Prompts Recall of Convertible Cribs by Playkids USA; Crib Poses Entrapment and Suffocation Hazards (October 16, 2008)
Simplicity Brand Drop Side Cribs Recalled By Various Retailers Due To Serious Entrapment And Suffocation Hazard To Infants and Toddlers (September 17, 2008, Last Revised April 7, 2009)
Baby Appleseed Recalls Cribs Due to Fall Hazard (August 5, 2008)
Mother Hubbard's Cupboards Recalls Cribs Due to Fall Hazard (August 5, 2008)
Stanley Furniture Recalls Cribs Due to Entrapment Hazard (June 26, 2008)
Jardine Cribs Sold by Babies"R"Us Recalled Due to Entrapment and Strangulation Hazard (June 24, 2008)
Bassettbaby Cribs Recalled Due to Entrapment Hazard; Sold Exclusively at Babies "R" Us (June 5, 2008)
Munire Furniture Recalls Cribs Due to Fall Hazard (February 28, 2008)
Bassettbaby Drop-Side Cribs Recalled Due to Entrapment and Strangulation Hazard (February 14, 2008)
Cribs Sold By Bassettbaby Recalled Due to Entrapment and Strangulation Hazard: Sold Exclusively at Babies R Us (November 8, 2007)
About 1 Million Simplicity Cribs Recalled Due To Failures Resulting in Infant Deaths (September 21, 2007, Last Revised April 14, 2009)
NettoCollection Recalls Cribs Due to Entrapment and Strangulation Hazard (September 4, 2007)
CPSC, Stokke Announce Recall of Sleepi Crib Foam Mattresses Due to Entrapment Hazard (August 23, 2007)
Simplicity Recalls Cribs Due to Fall, Entrapment and Choking Hazards (June 6, 2007, Revised April 7, 2009 Release #07-205)
Song Lin Industrial Inc. Recalls Cribs Due to Fall Hazard (May 31, 2007)
Recent Death Prompts Renewed Search for Simplicity Cribs with Graco Logo (February 8, 2006, Last Revised April 7, 2009)
Simplicity Inc. Recall of Graco Branded Aspen Cribs for Suffocation Risk (December 21, 2005, Revised April 7, 2009)
Delta Enterprise Corp. Recall of Certain Cribs Sold at Toys R Us Stores (November 22, 2005)
Child Craft Industries, Inc. Recall of Cribs (October 18, 2005)
Pottery Barn Kids Recall of Spindle Cribs (September 8, 2005)
Simplicity Inc. Recall of Cribs (May 3, 2005, Revised April 7, 2009)
Delta Enterprise Corp. Recall to Repair Portable Cribs (March 9, 2005)
Orbelle Trade Inc. Recall of Cribs (January 6, 2005, Revised April 28, 2006)
Stanley Furniture Company Inc. Recall of Cribs (March 24, 2004)
Child Craft Industries Recall of Cribs (February 24, 2004)
"Tiffany" and "Josephine" Crib Drop-Side Rails Recalled by Babi Italia/LaJobi Industries (June 4, 2003)
Cribs Recalled by Baby's Dream Furniture Inc. (May 6, 2003)
Cribs Recalled by Vermont Precision Woodworks (April 25, 2002)
L.A. Baby Recall of Folding Little Wood Cribs (December 21, 2001)
LaJobi Industries Recalls Cribs (December 18, 2001)
Cribs Recall/Repair by Simmons (February 21, 2001)
Cribs Repair/Recall by Baby's Dream Furniture (February 10, 1998)
Mesh-Sided Cribs Recalled by B&B (December 18, 1997, Revised December 18, 2008)
Francisca Full-Size Baby Cribs Recalled by J.C. Penney (September 30, 1997)
Metal Cribs Recall/Repair by Cosco (July 9, 1997)
Baby Cribs Recall/Repair by C & T International (JUNE 24, 1997)
Metal Cribs Recalled by Coaster Company of America (May 15, 1997)
Crib Recalled by Cosco (December 6, 1995)
Infant Cribs Recalled by Lanacional (December 5, 1995)
Fold-Away Crib Warning by Gerry Baby Products (October 5, 1995; Revised January 13, 2003)
Crib Side Rail Recalled by Welsh Juvenile Products (March 1, 1995; Revised June 21, 2001)
Crib Side Rail Recalled by Okla Homer Smith Furniture (February 10, 1995)
CPSC Announces A Potential Choking Hazard With "Lewis Of London" Brand Cribs (July 12, 1993)
Childcraft Cribs With Loose Slats Recalled (August 22, 1991, Last revised October 23, 2006)
Baby Cribs Recall by HBLA (November 25, 1987)
Portable Crib Floorboard Replacement by North States Industries (September 29, 1987)
Small Wonders Crib and Playpen Warning (February 11, 1987)
Dropside Mesh-Sided Cribs & Playpens Warned (September 15, 1986)
Omar Cribs Repaired by Puck Children's Furniture (July 31, 1986)
Baby Cribs Seized And Destroyed by Marshalls (August 27, 1985)
Mesh-Sided Crib & Playpen Warning (August 19, 1985)
Crib Brackets & Mattress Support Hangers Replaced by Baby Line (June 26, 1985)
Cribs Recalled by Bassett (February, 1984; Revised June 21, 2001)
Contemporary Times "Stralighter" Crib Warning (September 22, 1982)
Baby Crib Brackets Recalled by Questor (November 17, 1981)
Cribs Recalled by Questor (October 19, 1981)
Cribs Repaired by Bassett (February 14, 1980)
Bassett Baby Cribs Warning (November 28, 1979)
Brackets On Cribs Recalled by Questor (August 9, 1979)
Bassett Baby Crib Warning (May 5, 1978)
APPENDIX II

January 1, 2010

Dear Sorelle/C&T International Customer,

None of the cribs that have been produced by Sorelle/C&T International have been recalled, nor were they part of the recent recall of drop side cribs.

Please note that certain cribs that were manufactured by Sorelle/C&T International are no longer in production. New models/designs are currently being used.

Over the past ten years, major advancements in the design and production of cribs have been made. This has allowed crib manufacturers to produce safer and longer lasting cribs. Today there are cribs that convert into a toddler bed, a toddler day bed and even into an adult sized bed.

Because certain models of cribs are no longer in production, replacement parts may not be available. There is a one year limited warranty from date of original purchase.

If you are planning to use a crib (either stationary or drop side) that is no longer in production or that has been in storage, please make note of the following. If the below cannot be strictly adhered to, you SHOULD NOT use the crib.

1. All of the needed bolts, lock nuts, etc. are available. DO NOT SUBSTITUTE PARTS! Incorrect or substituted parts may affect the integrity, the structure and the, safety of the crib.
2. There has been NO warping or any of the pieces due to the storage of the crib.
3. All pieces are still in good condition, there are no pieces that are loose, broken or splintered.
4. The plastic drop side tracks (on the end/side pieces of the crib) are in excellent condition meaning that there is NO WARPING, NO BREAKAGE, etc. of the drop side plastic pieces.
5. The glue that holds the drop side track in place is NOT loose or dried out.
6. The pins that are on the front piece of the crib are still fully functional. They have not either become loose, come off or “get stuck” when in use.
7. Once assembled, if the crib (either stationary or drop side) does not function EXACTLY as it did when you first purchased it, DO NOT use it.

Lastly, please remember to:
1. Periodically check the crib for sharp points, sharp edges, damaged hardware and loose joints.
2. DO NOT place near the window where cords from blinds or drapes may strangle the child.
3. DO NOT suspend strings over crib or attach string to toys. Do not place items with strings around the child’s neck. STRINGS CAN CAUSE STRANGULATION!
4. Once the child is able to pull to a standing position, place the mattress support into the lowest position. Remove any bumper pads, pillows or objects that could serve as a step for climbing out.

If there are any other questions or comments on the above, please let us know.

Regards,

Sorelle Furniture/C&T International