

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT-CHANCERY DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

-vs-

SFCA, INC., a Delaware Corporation,

Defendant.

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NO. 08CH40702

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

NOW COMES the Plaintiff, THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and brings this action complaining of Defendant, SFCA, INC., a Delaware Corporation, and respectfully states as follows:

JURISDICTION AND VENUE

1. This action is brought for and on behalf of THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to the provisions of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*, (2006), Illinois Children's Product Safety Act, 430 ILCS 125/1 *et seq.*, (2006) and her common law authority as Attorney General to represent the People of the State of Illinois.

2. Venue for this action properly lies in Cook County, Illinois, pursuant to Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, in that some of the transactions complained of herein out of which this action arose occurred in Cook County.

**PARTIES**

3. Plaintiff, THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, is charged, *inter alia.*, with the enforcement of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*

4. Defendant, SFCA, INC., is a Delaware Corporation that engaged in the distribution of bassinets to retailers who sold the bassinets in the State of Illinois. The Defendant's principal place of business is located at the address of 501 South Ninth Street, Reading, Pennsylvania 19602.

**COMMERCE**

5. Section 1(f) of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1(f), defines "trade" and "commerce" as follows:

The terms 'trade' and 'commerce' mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

6. Defendant, SFCA, Inc., (hereinafter referred to as "Defendant") was from April 3, 2008 engaged in trade and commerce in the State of Illinois by selling and distributing cribs and bassinets to retailers who sell the cribs and bassinets to the general public in the State of Illinois.

**DEFENDANT'S BUSINESS PRACTICES**

7. The Defendant generally hires third parties to manufacture children's products. The Defendant then imports and distributes the manufactured product to retailers who sell the product to the public.

8. Beginning as early as April 3, 2008, Defendant sold and distributed Simplicity

brand cribs and bassinets to national and independent Illinois retailers who sold the cribs and bassinets in the State of Illinois.

### **PLAINTIFF'S INVESTIGATION**

9. On September 29, 2007, a four month old baby girl died in a Simplicity brand convertible bassinet when her body slipped through an opening on the side of the bassinet. The infant's head became entrapped between an exposed metal bar and the mattress thereby suffocating her to death.

10. Certain Simplicity 3-in-1 and 4-in-1 convertible bassinets contain metal bars spaced apart more than 2 3/8 inches. The metal bars are covered by an adjustable fabric flap which is attached by velcro. The fabric is folded down over the lower metal bar when the bassinet is converted from a bassinet into a bed side co-sleeping position. If the velcro is not properly re-secured when the flap is adjusted, an infant can slip through the opening and become trapped between the metal bar and the mattress and suffocate. A picture of a Simplicity brand bassinet with a doll depicting how a baby can become trapped and suffocate to death is attached hereto and incorporated as Exhibit A.

11. On January 29, 2008, Simplicity submitted a design change for seven of their 3-in-1 and 4-in-1 close sleeper bassinet models. The change was to add a tunnel with a warning statement to the bassinet skirt and to reduce the opening for the close sleeper on the bassinet skirt. The cost of this design change would be .04 cents per bassinet. This change would allow the metal bar of the bassinet to go through the fabric which would never allow a gap to be created when the bassinet is used in the co sleeper position.

12. Since 2005, the CPSC has issued 5 recalls on products manufactured and/or distributed by Simplicity, Inc. On May 3, 2005, 575 cribs were recalled due to chipping paint on

the cribs which could pose a choking hazard. On December 21, 2005, 104,000 cribs were recalled because screws on the wooden mattress support could come loose allowing a portion of the mattress to fall which could lead to entrapment and suffocation of a child. On June 6, 2007, 40,000 cribs were recalled due to instructions provided with the cribs which incorrectly instructed consumers on how to attach the crib's drop side and if improperly installed, the drop side could disengage. On September 21, 2007, 1,000,000 cribs were recalled due to the drop side railing detaching from the crib and infant deaths in these Simplicity brand cribs.

13. On October 12, 2007, the Illinois Attorney General's Office issued a Civil Investigative demand to Simplicity, Inc. Simplicity, through its counsel, issued a partial response but never fully complied with the subpoena. The Illinois Attorney General's Office sent a letter to Simplicity's counsel stating that a subpoena enforcement lawsuit would be filed if Simplicity did not fully respond to the CID. Simplicity's counsel informed the Illinois Attorney General's Office that they did not represent Simplicity anymore. The Illinois Attorney General's office subsequently found out about the April 2, 2008 UCC Article 9 foreclosure sale which effectively put Simplicity, Inc. out of business.

14. On April 2, 2008, Defendant purchased the assets of Simplicity in a UCC Article 9 foreclosure sale. Pursuant to the Bill of Sale, the Defendant acquired Simplicity's inventory which included, among other things, cribs, bassinets and other baby furniture.

15. On April 3, 2008, Defendant sold and distributed Simplicity brand 3-in-1 and 4-in-1 bassinets to national retailers and independent Illinois retailers. These national and independent Illinois retailers sold the Simplicity brand 3-in-1 and 4-in-1 bassinets in the State of Illinois.

16. On August 21, 2008, a six and a half month old baby girl died in a

Simplicity brand convertible bassinet of the same design to the bassinet in the September 29, 2007 death.

17. On August 27, 2008, the Consumer Product Safety Commission (hereinafter referred to as "CPSC") issued its first warning, Release # 08-378, urging parents and caregivers to stop using Simplicity 3-in-1 and 4-in-1 convertible "close sleeper" models. The safety alert noted that the Defendant refused to cooperate with the CPSC and recall the products because the Defendant maintains it is not responsible for products previously manufactured by Simplicity, Inc. CPSC Release #08-378 is attached hereto and incorporated as Exhibit B.

18. Due to Defendant's refusal to cooperate with the CPSC in issuing a recall of the bassinets, the public and the Illinois Attorney General's Office had a difficult time determining which Simplicity brand bassinets contained the deadly design and which retailers had purchased those Simplicity brand bassinets.

19. On August 28, 2008, the CPSC issued another release, Release #08-381, "urging retailers across the country to protect the health and safety of babies by stopping sale and recalling nearly 900,000 dangerous Simplicity bassinets." This release contained the model numbers of the recalled bassinets and named six retailers known to have sold the bassinets. The identified six retailers voluntarily agreed to recall the product and provide a refund or store credit. CPSC Release #08-381 is attached hereto and incorporated as Exhibit C.

20. On August 29, 2008, the CPSC issued an update to the August 28, 2008 Release #08-381 recall, listing additional retailers which had agreed to voluntarily recall the bassinet and provide a refund or store credit. CPSC August 29, 2008 update to Release #08-381 is attached hereto and incorporated as Exhibit D.

21. On August 28, 2008, the Chicago Tribune purchased a Simplicity brand

bassinet from a Baby Depot in Chicago, Illinois. The box containing the bassinet had a shipping label on it showing that the Defendant shipped the bassinet to the retailer. Picture of shipping label is attached hereto and incorporated as Exhibit E.

22. The Simplicity brand bassinet purchased by the Chicago Tribune had the same design as the Simplicity brand bassinets in which the two infant babies were suffocated to death.

23. On August 28, 2008, a staff member from the Illinois Attorney General's Office purchased two Simplicity brand bassinets from a Burlington Coat Factory store located in Illinois. One of the boxes had a shipping label on it showing that the Defendant shipped the bassinet to the retailer from where it was purchased. Picture of shipping label is attached hereto and incorporated as Exhibit F.

24. In total, on August 28, 2008, the Illinois Attorney General's Office purchased four new Simplicity brand bassinets from retailers selling the bassinets to Illinois consumers. All four of the bassinets had the same design as the bassinets in which the two infant girls had died.

25. All four of the Simplicity brand bassinets that the Illinois Attorney General's Office purchased had model numbers not included in the initial recall but clearly contained the same design as the bassinets in which the two babies had died.

26. On September 3, 2008, due to the Illinois Attorney General's internal investigation, CPSC expanded the bassinet recall to include bassinets with model numbers that had not been listed on previous releases by issuing an update to CPSC Release #08-381.

27. On September 17, 2008, 600,000 Simplicity brand cribs were recalled due to serious entrapment and suffocation hazard to infants and toddlers.

**COUNT I**

**CONSUMER FRAUD AND DECEPTIVE PRACTICES ACT**

**A. APPLICABLE STATUTE**

28. The Defendants have engaged in a course of trade or commerce which constitutes unfair and deceptive acts or practices declared unlawful under Section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, which provides:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in section 2 of the 'Uniform Deceptive Trade Practices Act', approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5(a) of the Federal Trade Commission Act.

**B. VIOLATIONS**

29. Defendant has engaged in a course of trade or commerce which constitutes unfair and or deceptive acts and practices declared unlawful under section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, by:

- a. distributing 3-in-1 and 4-in-1 Simplicity brand bassinets with the recalled design into the stream of commerce when Defendant knew about the first baby's death in August 2007 and knew that the predecessor company had made a design change which could have prevented a gap between the mattress and lower metal bar;

- b. placing babies at risk by continuing to distribute bassinets with the recalled design;
- c. failing to disclose, clearly and conspicuously, in the instruction manual how to assemble the bassinet, that the fabric flap must cover the lower bar and be fastened with velcro at all times when the bassinet is being used in the co-sleeper mode, to ensure that the more than four inch gap between the lower metal bar and the mattress does not occur;
- d. failing to disclose the material fact, at minimum in the instruction manual, that injury and/or death to a baby in the bassinet could result if the fabric flap did not cover the gap between the lower metal bar and the mattress; and
- e. misrepresenting, by implication, that the 3-in-1 and 4-in-1 Simplicity brand bassinet with the four inch gap between the lower metal bar and the mattress is a safe place for babies to sleep when in fact two infants have died from the recalled design.

### C. REMEDIES

30. Section 7 of the Consumer Fraud and Deceptive Business Practices Act, 815

ILCS 505/7, provides:

Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by the Act to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by preliminary or permanent injunction the use of such method, act or practice. The Court, in its discretion, may exercise all powers necessary, including but not limited to: injunction, revocation, forfeiture or suspension of any license, charter, franchise, certificate or other

evidence of authority of any person to do business in this State; appointment of a receiver; dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this State; and restitution.

In addition to the remedies provided herein, the Attorney General may request and this Court may impose a civil penalty in a sum not to exceed \$50,000 against any person found by the Court to have engaged in any method, act or practice declared unlawful under this Act. In the event the court finds the method, act or practice to have been entered into with intent to defraud, the court has the authority to impose a civil penalty in a sum not to exceed \$50,000 per violation.

31. Section 10 of the Consumer Fraud and Deceptive Business Practices Act, 815

ILCS 505/10, provides:

In any action brought under the provisions of this Act, the Attorney General is entitled to recover costs for the use of this State.

#### **D. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that this honorable Court enter an Order:

- A) Finding that the Defendant has violated section 2 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2; including, but not limited to, the unlawful acts and practices alleged herein;
- B) Finding that the Defendant has engaged in unfair or deceptive acts or practices in the conduct of trade or commerce in violation of Section 2 of the Illinois Consumer Fraud Act, 815 ILCS 505/2;
- C) Finding that Defendant has violated Section 2 of the Illinois Consumer Fraud Act, 815 ILCS 505/2;
- D) Permanently enjoining the Defendant from engaging in acts and practices which violate Section 2 of the Consumer Fraud Act, including, but not limited to, the acts and practices

outlined above;

E) Preliminarily and permanently enjoining the Defendant from distributing recalled bassinets in or from the State of Illinois;

F) Preliminarily and permanently enjoining Defendant from selling or transferring any inventory to any third party until the Court is satisfied that no more recalled products are being distributed;

G) Requiring Defendants to hire an independent third party consultant to develop a product safety protocol;

H) Requiring Defendant to recall through all of its Illinois retailers all Simplicity bassinet models with the recalled design, provide a refund to all retailers who have issued a refund or store credit to a consumer who returned a Simplicity brand bassinet subject to the recall and provide a refund to all consumers who have a recalled bassinet in their possession but do not have a receipt so a retailer will not accept the return or the retailer is out of business;

I) Requiring Defendant to provide the public with notification and information regarding the products related to CPSC Release #08-378 and CPSC Release #08-381 by running full page advertisements in all daily newspapers with a daily circulation of over 20,000 newspapers in Illinois, and by sending the recall notice to all retailers Defendant sold the bassinets to so it can be placed in their stores;

J) Requiring Defendant to hire an independent third party consultant to review all of Defendant's product designs to ensure compliance with safety standards;

K) Requiring Defendant to implement a safety protocol policy and procedure;

L) Requiring Defendant to develop and implement a policy and procedure for

handling recalls and warnings;

M) Requiring Defendant to provide the Attorney General with an accounting of the number of recalled Simplicity brand bassinets that have been recalled pursuant to CPSC Release #08-378 and #08-381 that are currently being held in retail stores but off of store shelves, the number returned to the Defendant from consumers and/or retailers, the number that Defendant currently has in its possession that were never distributed to consumers and/or retailers and the number of recalled Simplicity bassinets that are being held or stored in any other location;

N) Requiring Defendant to provide assurances that a sale of its assets, whether voluntary or involuntary, will not include Simplicity brand recalled bassinets from coming into the State of Illinois;

O) Impounding all SFCA inventory pending a comprehensive review and confirmation that no recalled bassinets remain in SFCA possession;

P) Assessing a civil penalty in the amount of Fifty Thousand Dollars (\$50,000) per violation of the Act found by the Court to have been committed by the Defendants with the intent to defraud; if the Court finds the defendant has engaged in methods, acts or practices declared unlawful by the Act, without the intent to defraud, then assessing a statutory civil penalty of Fifty Thousand Dollars (\$50,000), all as provided in section 7 of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/7;

Q) Assessing an additional civil penalty in the amount of Ten Thousand Dollars (\$10,000) per violation of the Consumer Fraud and Deceptive Business Practices Act found by the Court to have been committed by the Defendant against a person 65 years of age and older as provided in section 7(c) of the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/7(c);

R) Requiring the Defendant to pay all costs for the prosecution and investigation of this action, as provided by section 10 of the Consumer Fraud and Deceptive Business Practices, Act 815 ILCS 505/10; and

S) Providing such other and further relief as justice and equity may require.

## COUNT II

### CHILDREN'S PRODUCT SAFETY ACT

32. Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1-27 above.

#### A. APPLICABLE STATUTE

33. Section 17 of the Children's Product Safety Act, 430 ILCS 125/17, provides:

If a manufacturer, importer, wholesaler, or distributor of children's products has placed into the stream of commerce in Illinois a children's product for which a recall or warning has subsequently been issued by one of those entities or by an agency of the federal government, then the manufacturer, importer, wholesaler, or distributor must initiate the following steps within 24 hours after issuing or receiving the recall or warning:

(1) Contact all of its commercial customers, other than end consumers, to whom it sold, leased, sublet, or transferred that particular children's product in Illinois. This contact must include providing the recall notice or warning and must be made to the person designated by the retailer for that product.

(2) If the manufacturer, importer, wholesaler, or distributor maintains a web site, the entity must place on the home page (or the first entry point) of its web site a link to recall or warning information that contains the specific recall notice or warning that was issued for the product in question. The recall or warning information must include a description of the product, the reason for the recall or warning, a picture of the product, and instructions on how to participate in the recall or warning. The information may include only the product recall information and may not include sales or marketing information on that product or any other product, excluding return and exchange policies. The recall or warning information must allow persons to participate in the recall through the web site of the manufacturer, importer, wholesaler, or distributor.

34. Section 10 of the Children's Product Safety Act, 430 ILCS 125/10, provides:

'Distributor' and 'wholesaler' means any person, other than a manufacturer or retailer, who sells or resells or otherwise places into the stream of commerce a children's product.

### **B. PLAINTIFF'S INVESTIGATION**

35. On August 27, 2008, the CPSC issued a warning (Release #08-378) urging consumers to stop using Simplicity 3-in-1 and 4-in-1 convertible "Close-Sleeper" models.

36. On August 28, 2008, CPSC issued a recall (Release #08-381) urging consumers to stop using Simplicity 3-in-1 and 4-in-1 convertible "Close-Sleeper" models, listing the model numbers of the bassinets affected and the retailers who had voluntarily agreed to provide a refund or store credit for the returned bassinet.

37. The website owned, controlled and operated by the Defendant, [www.simplicityforchildren.com](http://www.simplicityforchildren.com), does not contain a link on its home page to CPSC Release #08-378 issued on August 27, 2008.

38. The website owned, controlled and operated by the Defendant, [www.simplicityforchildren.com](http://www.simplicityforchildren.com), does not contain a link on its home page to CPSC Release #08-381 issued on August 28, 2008.

39. On September 8, 2008, sometime after 3:38pm Central Standard Time, Defendant posted a link on the home page of its website with a document entitled "Updated Model Number Listing of 3-in-1 and 4-in-1 Simplicity Bassinets affected by the CPSC Alert, with instructions and illustrations". This link does not provide a description of the product, the reason for the recall or a picture of the product.

40. The Defendant did not notify all of its commercial customers of CPSC

Release #08-378 twenty four hours after the warning had been issued.

41. The Defendant did not notify all of its commercial customers of CPSC Release #08-381 twenty four hours after the warning had been issued.

### **C. VIOLATIONS**

42. Defendant has violated section 17 of the Children's Product Safety Act, 430 ILCS 125/17, by:

- a. failing to provide a link to CPSC Release #08-378 on its website at [www.simplicityforchildren.com](http://www.simplicityforchildren.com) within twenty four hours after receiving the warning;
- b. failing to provide a link to CPSC Release #08-381 on its website at [www.simplicityforchildren.com](http://www.simplicityforchildren.com) within twenty four hours after receiving the recall;
- c. failing to provide a description of the recalled product, the reason for the recall and a picture of the product on its website at [www.simplicityforchildren.com](http://www.simplicityforchildren.com);
- d. failing to contact all of its commercial customers of CPSC Release #08-378 by providing the warning to its customers within twenty four hours after receiving the warning; and
- e. failing to contact all of its commercial customers of CPSC Release #08-381 by providing the warning to its customers within twenty four hours after receiving the warning.

### **D. REMEDIES**

43. Section 25 of the Children's Product Safety Act, 430 ILCS 125/25, provides:

Except as provided in Section 20, a commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer who violates this Act by failing to exercise reasonable care is subject to

a civil penalty in an amount not to exceed \$500 for each day that the violation continues.

44. Section 30(d) of the Children's Product Safety Act, 430 ILCS 125/30(d) provides:

(d) Whenever the Attorney General or the State's Attorney has reason to believe that any commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer has engaged in or is engaging in any practice in violation of this Act and that proceedings would be in the public interest, he or she may bring an action in the name of the People of the State against that commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer to restrain by preliminary or permanent injunction the use of that practice.

#### **E. PRAYER FOR RELIEF**

A) Preliminarily and permanently enjoining the Defendant from distributing products in or from the State of Illinois until it contacts all of its commercial customers by providing CPSC Release #08-378 and #08-381 to the person designated by the retailer in compliance with section 17(a)(1) of the Children's Product Safety Act, 430 ILCS 125/17(a)(1);

B) Preliminarily and permanently enjoining the Defendant from distributing products in or from the State of Illinois until it posts a link to CPSC Release #08-378 and #08-381 on its website in compliance with Section 17(a)(2) of the Children's Product Safety Act, 430 ILCS 125/17(a)(2);

C) Preliminarily and permanently enjoining the Defendant from distributing products in or from the State of Illinois until it institutes policies and procedures to ensure that it complies with the Children's Product Safety Act, 430 ILCS 125/1 *et seq.*; and

D) Assessing a civil penalty in the amount of Five Hundred dollars (\$500.00) per day that a violation of the Act found by the Court to have been committed by the Defendant as provided in section 25 of the Children's Product Safety Act, 430 ILCS 125/25.

**COUNT 3**

**ENFORCEMENT OF CIVIL INVESTIGATIVE DEMAND**

45. Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1-27 above.

46. On September 3, 2008, Defendant, received a Supeona Duces Tecum mailed to its attorney's office located at 50 Broadway #2202, New York, NY 10004, C/O Joel Robinson & Co. A copy of the subpoena is attached hereto and incorporated as Exhibit G.

47. On September 4, 2008, Defendant's new attorney for this matter contacted our office and stated that they would provide a preliminary response to the subpoena and requested an extension until September 12, 2008 to provide a full response.

48. Defendant was granted an extension of the subpoena until September 12, 2008.

49. On September 5, 2008, Defendant provided a preliminary response to the subpoena.

50. On September 12, 2008, Defendant provided a supplemental response to the subpoena.

51. Defendant's September 5 and 12, 2008 responses do not adequately answer the subpoena request and in some cases the answers are incomplete or incorrect as follows:

a. Request #5: "Has SFCA, Inc. ever had in its possession or inventory any of the bassinets covered by CPSC Release #08-378?" Defendant responded, "[u]pon information and belief, the assets acquired by SFCA from Simplicity may have included inventory of bassinets covered by CPSC Release #08-378. SFCA's investigation of matter is still pending and it will supplement its response as information becomes available." The Illinois Attorney General's Office has not received any supplemental information to this request.

b. Request #7: "Please identify all bassinet model numbers that SFCA, Inc. has manufactured, imported, distributed, sold, placed into the stream of commerce, or caused to be manufactured, distributed, sold, placed into the stream of commerce. For each model number, please indicate the manufacture dates and distribution dates, and provide a product photo and instruction booklet."

Defendant produced a list of 23 "SFCA, Inc. Bassinet Model Numbers", 11 photos of bassinets with no identifiers on the bassinets, 6 instruction manuals with no identifiers as to which instruction manual goes with what bassinet, a list of 22 bassinet model numbers entitled "SFCA, Inc. Bassinet Activity 4-3-08 to 9-4-08" which does not provide the distribution dates for each model number listed.

c. Request #8: "For each bassinet model number covered by CPSC Release #08-378, please do the following: (a) indicate the manufacture dates"; Defendant provided an incomplete list of bassinet model numbers covered by the CPSC Release #08-378; therefore, an incomplete list of the manufacture dates covered by CPSC Release #08-378; "(b) indicate the distribution dates"; Defendant failed to provide distribution dates for any bassinet model numbers it only provided a distribution period of time; "(d) identify all retailers located in Illinois, including online retailers, which carried or sold the bassinets"; Defendant responded by identifying six retailers not including Burlington Coat Factory which Plaintiff knows is incomplete because the Plaintiff purchased a bassinet effected by CPSC Release #08-387 from Burlington Coat Factory; "(f) provide a product photo and instruction booklet"; Defendant only provided eleven photos and six instruction booklets yet thirty one bassinets are subject to CPSC Release # 08-378.

g. Request #10: "All documents concerning SFCA, Inc.'s policies,

procedure and protocols related to testing, inspection, quality control and otherwise ensuring the safety of children's products that SFCA, Inc. manufactures, imports, distributes, sells, or places into the stream of commerce, including all such policies, procedures, and protocols that applied to the manufacture, distribution, importation, or sale of the bassinets covered by CPSC Release #08-378." Defendant has not provided any documents responsive to this request.

h. Request #11: "Please produce all documentation concerning the bassinet design change from the design of Simplicity bassinets covered by CPSC Release #08-378 to the current design(s)." Defendant provided one document in response to this request but has failed to provide any other documents.

52. Defendant has provided incomplete, inaccurate or failed to respond to basic questions such as what faulty products it distributed to which retailers. The Defendant's failure to respond to the subpoena has impeded the Illinois Attorney General's enforcement and consumer education efforts.

#### A. REMEDIES

53. Section 3 of the Consumer Fraud Act provides in relevant part as follows:

When it appears to the Attorney General that a person has engaged in, is engaged in, or is about to engage in any practice declared to be unlawful by this Act, when he receives a written complaint from a consumer or borrower of a practice declared to be unlawful under this Act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaged in, or is about to engage in any practice declared to be unlawful by this Act, he may:

(A) Require the person to file on such terms as he

prescribes a statement or report in writing, under oath or otherwise, as to all information as he may consider necessary;

(B) Examine under oath any person in connection with the conduct of any trade or commerce;

(C) Examine any merchandise or sample thereof, record, book, document, account or paper as he may consider necessary . . . .

815 ILCS 505/3.

54. Section 6 of the Consumer Fraud Act provides as follows:

If any person fails or refuses to file any statement or report, or obey any subpoena issued by the Attorney General or a State's Attorney, the Attorney General or the State's Attorney may file a complaint in the circuit court for the:

(a) Granting of injunctive relief, restraining the sale or advertisement of any merchandise by such persons, or the conduct of any trade or commerce that is involved;

(b) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this State or revoking or suspending of the certificate of authority to do business in this State of a foreign corporation or the revoking or suspending of any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and,

(c) Granting of such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

815 ILCS 505/6.

#### **B. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that this Honorable Court enter an order:

(A) Compelling the Defendant to comply with the Subpoena Duces Tecum issued

August 28, 2008;

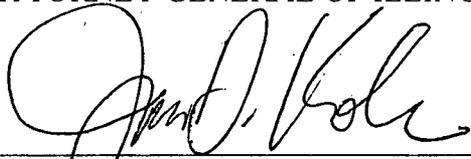
(B) Enjoining Defendant from distributing bassinets and/or cribs in or from the State

of Illinois until Defendant fully complies with the Subpoena Duces Tecum issued by the Illinois Attorney General; and

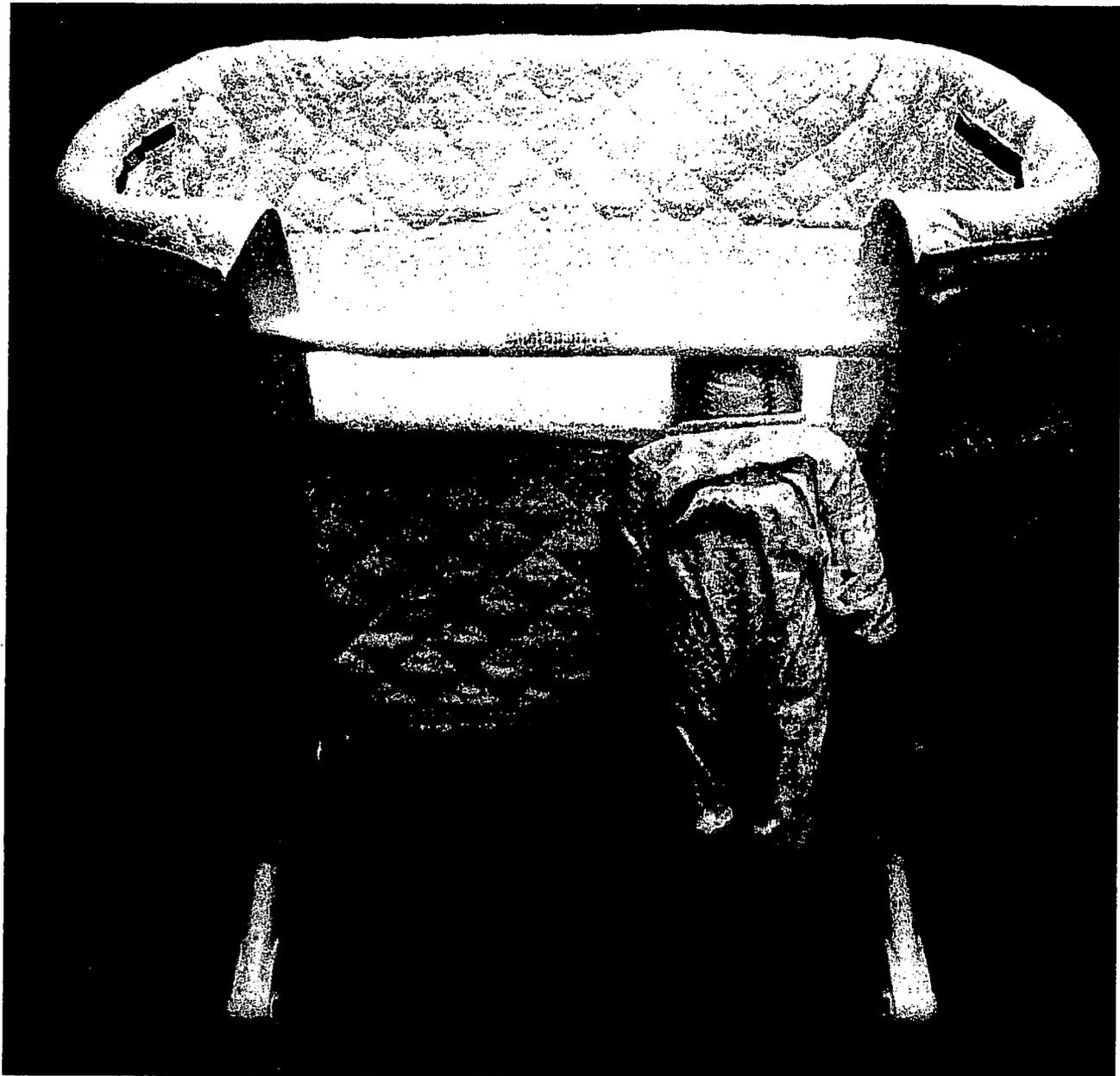
(C) Providing any other and further relief as justice and equity may require.

Respectfully Submitted,  
THE PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL OF ILLINOIS

By:

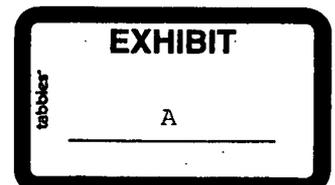
  
\_\_\_\_\_  
JAMES KOLE  
CHIEF, CONSUMER FRAUD BUREAU

MONICA GRUBBS  
Assistant Attorney General  
Consumer Fraud Bureau  
100 W. Randolph Street, 12<sup>th</sup> Floor  
Chicago, Illinois 60601  
(312) 814-3786



Send the link for this page to a friend! The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. Deaths, injuries and property damage from consumer product incidents cost the nation more than \$800 billion annually. The CPSC is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard. The CPSC's work to ensure the safety of consumer products - such as toys, cribs, power tools, cigarette lighters, and household chemicals - contributed significantly to the decline in the rate of deaths and injuries associated with consumer products over the past 30 years.

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# NEWS from CPSC

## U.S. Consumer Product Safety Commission

EXHIBIT

tabbies

B

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE

August 27, 2008

Release #08-378

**Firm Recall Hotline: (800) 858-8323**

CPSC Recall Hotline: (800) 638-2772

CPSC Media Contact: (301) 504-7908

Please see the subsequent press release regarding retailer actions involving this product.

### **Infants Strangled to Death in Simplicity Bassinets: CPSC Urges Consumers To Stop Using Simplicity 3-in-1 and 4-in-1 Convertible "Close-Sleeper" Models**

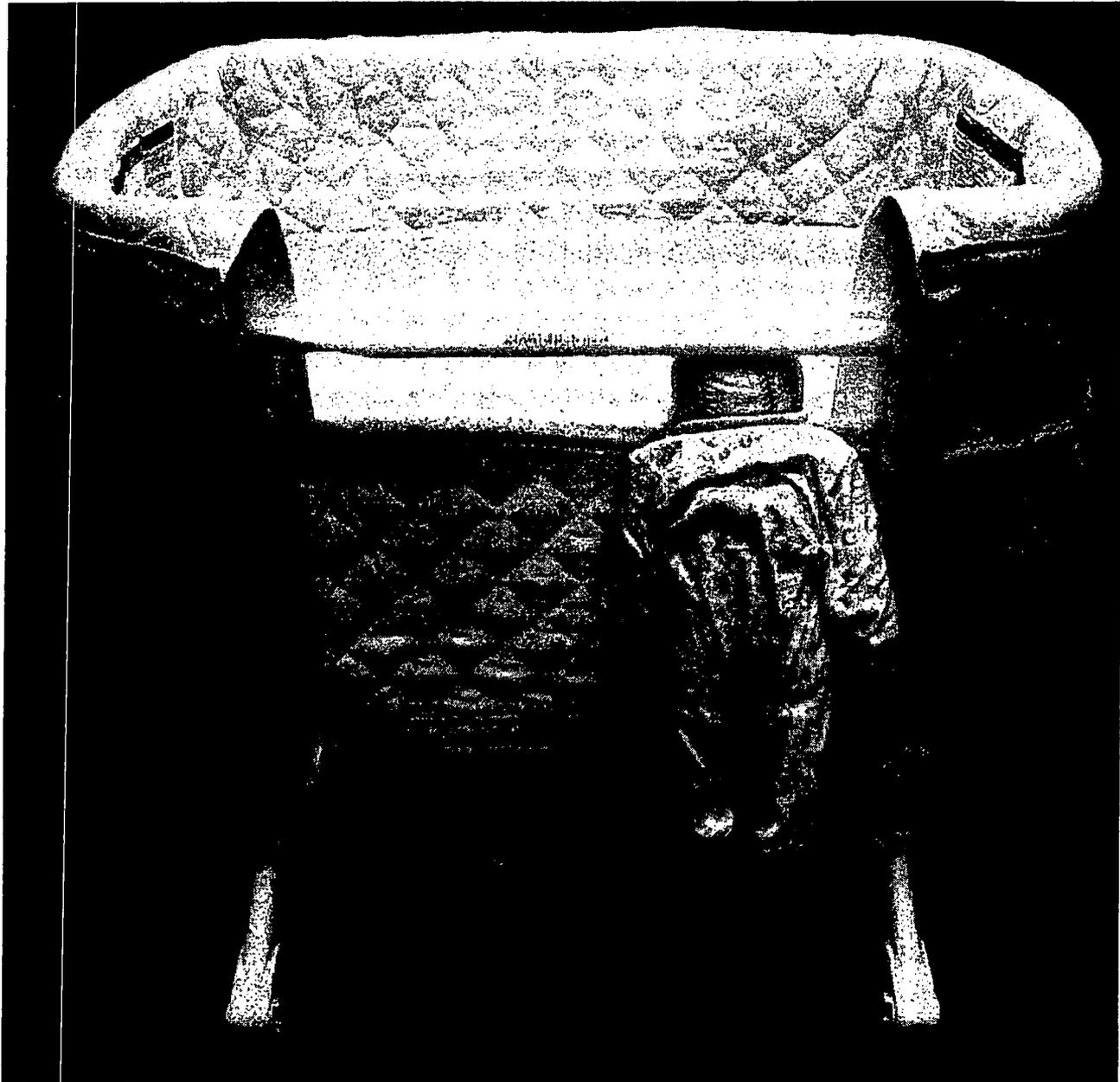
WASHINGTON, D.C. – The U.S. Consumer Product Safety Commission (CPSC) is urging parents and caregivers to stop using convertible "close-sleeper/bedside sleeper" bassinets manufactured by Simplicity Inc., of Reading, Pa. CPSC has learned that on August 21, 2008, a 5-month-old girl from Shawnee, Kan. was strangled to death when she became entrapped between the bassinet's metal bars. This is the second strangulation death CPSC has learned of in the close-sleeper bassinets. On September 29, 2007, a 4-month-old girl from Noel, Mo. became entrapped in the metal bars of the bassinet and died.

CPSC is issuing this safety alert because SFCA Inc., the company which purchased all of Simplicity Inc.'s assets at public auction in April 2008, has refused to cooperate with the government and recall the products. SFCA maintains that it is not responsible for products previously manufactured by Simplicity Inc.

The Simplicity 3-in-1 and 4-in-1 convertible bassinets contain metal bars spaced farther apart than 2 3/8 inches, which is the maximum distance allowed under the federal crib safety standard. The metal bars are covered by an adjustable fabric flap which is attached by velcro. The fabric is folded down when the bassinet is converted into a bed-side co-sleeping position. If the velcro is not properly re-secured when the flap is adjusted, an infant can slip through the opening and become entrapped in the metal bars and suffocate. This warning does not cover bassinets produced in recent months that have fabric permanently attached over the lower bar.

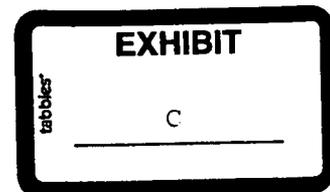
Due to the serious hazard these bassinets pose to babies, CPSC urges all consumers to share this safety warning with day care centers, consignment stores, family and friends to ensure that no child is placed to sleep in a Simplicity convertible bassinet covered by this warning.

The Commission voted, using its new authorities in the Consumer Product Safety Improvement Act, to release this warning upon making a finding that the health and safety of the public require immediate notice.



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# NEWS from CPSC

## U.S. Consumer Product Safety Commission

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE  
August 28, 2008  
Release #08-381

CPSC Recall Hotline: (800) 638-2772  
CPSC Media Contact: (301) 504-7908

This is the original of a document that has been modified. This Recall has been updated to include additional retailers.

### Six Retailers Agree To Stop Sale and Recall Simplicity Bassinets Due To Strangulation Hazard

WASHINGTON, D.C. – The U.S. Consumer Product Safety Commission (CPSC) is urging retailers across the country to protect the health and safety of babies by stopping sale and recalling nearly 900,000 dangerous Simplicity bassinets. Yesterday, CPSC warned parents, caregivers and consumers to immediately stop using convertible "close-sleeper/bedside sleeper" bassinets manufactured by Simplicity Inc., of Reading, Pa., due to a serious safety risk. Today, CPSC is announcing that the following retailers have voluntarily agreed to recall the product and provide a refund or store credit to consumers who return the product to the store where purchased:

- Wal-Mart Stores Inc., of Bentonville, Ark. – (800) 925-6278 or [www.walmart.com](http://www.walmart.com)
- Toys "R" Us Inc., of Wayne, N.J. - (800) 869-7787 or [www.toysrus.com](http://www.toysrus.com) or [www.babiesrus.com](http://www.babiesrus.com)
- Kmart Corp., of Hoffman Estates, Ill. – (800) 659-7026 or [www.kmart.com](http://www.kmart.com)
- Big Lots!, of Columbus, Ohio – (866) 244-5687 or [www.biglots.com](http://www.biglots.com)
- Target of Minneapolis, Minnesota sold at [www.target.com](http://www.target.com) only
- J.C. Penney, of Plano, Texas – (888) 333-6063 or [www.jcp.com](http://www.jcp.com)

Below is a listing of Simplicity 3-in-1 and 4-in-1 Convertible "Close-Sleeper" model bassinets that are included in this recall. The model number can be found on a label on the underside of the bassinet.

#### RECALLED Model Numbers

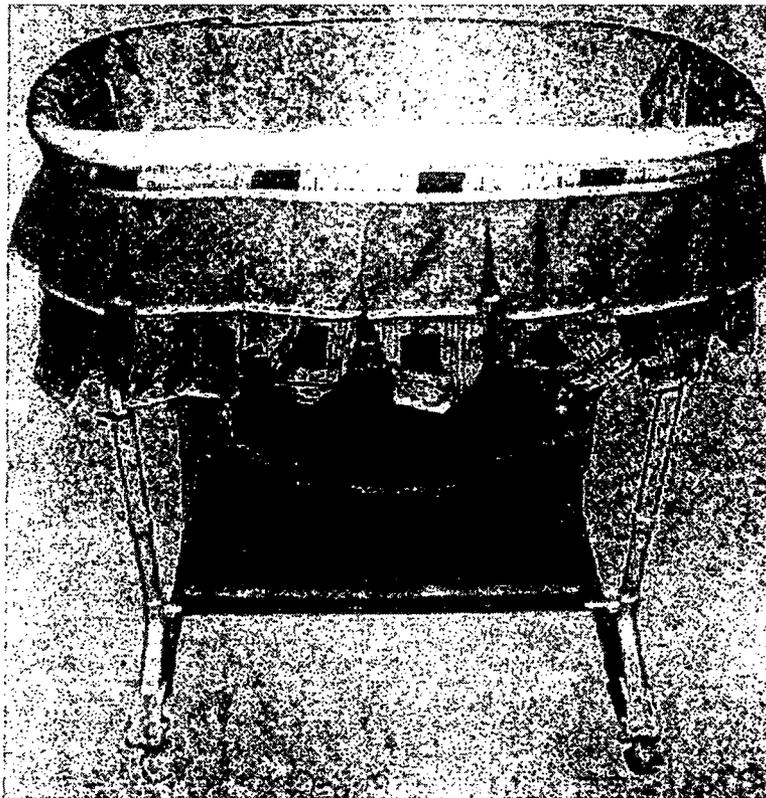
3000CL	3112DOH6	3011WHE	9250A	3016LAU	3046GTM
3010BIJ	3112DOH7	3011WHK	3012SOM	3016MIR	3046HAN
3010HAV	3122BAN	3012BIJ	5750SAR	3017NCB	3047MON
3010NGS	3122TGC	3012OXF	3012TGT	3020SFB	3050LIL
3010TGT	3010BIJC	3012SFD	3013PRO	3025BER	3050SAR

3010WHE	343-8363	3040SAR	9250B	3025C	3060GFS
3040LAU	343-8399	3040SPR	3014LOL	3026CRT	3060TFS
TD2500	3045FEL	3050SWT	3014NGS	3027MIS	8393
3040WDS	3111DPC	3060BTL	3015GFR	3030SAR	3040SPRC
3045DRM	3012LLTC	3112BDY	3070MAN	3040CLA	3040LAC
3111ZOL	3050SWTC	3045OXFC	3112DOH	5730FKB	3045DRMC

CPSC learned that on August 21, 2008, a 6 ½-month-old girl from Shawnee, Kan. was strangled to death when she became entrapped between the bassinet's metal bars. This is the second strangulation death CPSC has learned of in the co-sleeper bassinets. On September 29, 2007, a 4-month-old girl from Noel, Mo. became entrapped in the metal bars of the bassinet and died.

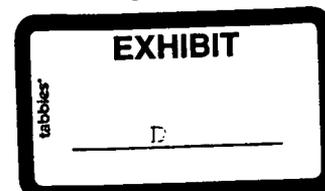
The Simplicity 3-in-1 and 4-in-1 convertible bassinets contain metal bars that are covered by an adjustable fabric flap which is attached by velcro. The fabric is folded down when the bassinet is converted into a bed-side co-sleeping position. If the velcro is not properly re-secured when the flap is adjusted, an infant can slip through the opening and become entrapped in the metal bars and suffocate. This warning does not cover bassinets produced in recent months that have fabric permanently attached over the lower bar.

Due to the serious hazard these bassinets pose to babies, CPSC urges all consumers to share this safety warning with day care centers, consignment stores, family and friends to ensure that no child is placed to sleep in a Simplicity convertible bassinet covered by this warning.



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# NEWS from CPSC

## U.S. Consumer Product Safety Commission

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE

Originally issued August 28, 2008

Last Revised August 29, 2008

Release #08-381

CPSC Recall Hotline: (800) 638-2772

CPSC Media Contact: (301) 504-7908

This Recall has been updated to include additional retailers.

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- Target of Minneapolis, Minnesota sold at [www.target.com](http://www.target.com) only
- J.C. Penney, of Plano, Texas – (888) 333-6063 or [www.jcp.com](http://www.jcp.com)

These additional retailers have subsequently agreed voluntarily to recall the product and provide a refund or store credit to consumers who return the product to the store where purchased:

STORE	CITY	STATE
AAFES	Dallas	TX
Amazon.com, LLC	Seattle	WA
Bed Bath and Beyond/BuyBuyBaby	Union	NJ
Burlington Coat Factory	Burlington	NC
Chelsea & Scott, LTD (OneStepAhead)	Lake Bluff	IL
CSN Stores	Boston	MA
Fingerhut Direct Marketing	Eden Prairie	MN

Kohl's Department Stores	Menomonee Falls	WI
ShopKo Stores, Inc.	Green Bay	WI
USA Baby #147	Clovis	CA
USA Baby #47	Overland Park	KS
USA Baby #58	Brookfield	WI

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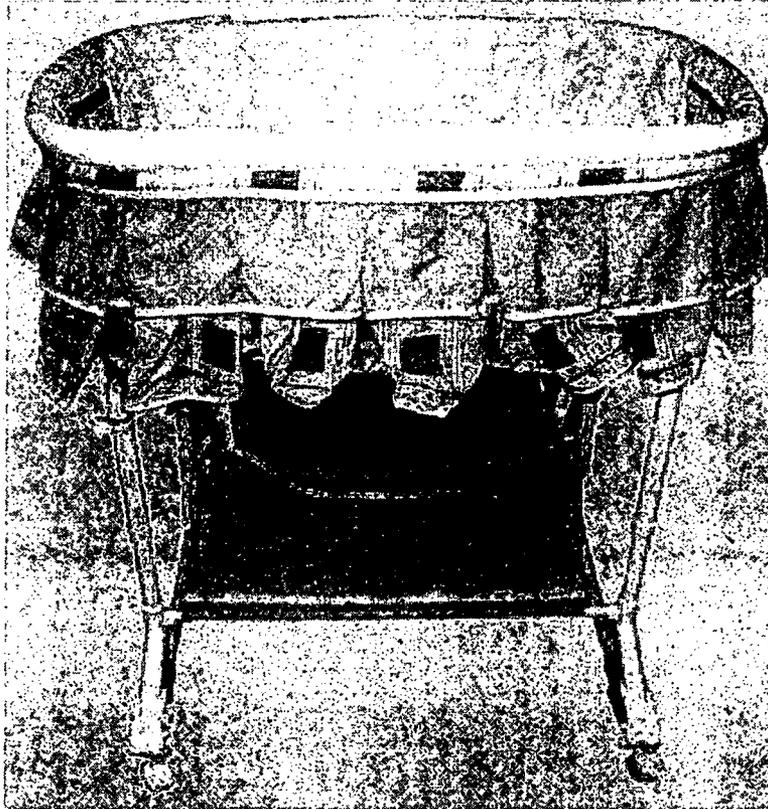
#### RECALLED Model Numbers

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3010BIJ	3112DOH7	3011WHK	3012SOM	3016MIR	3046HAN
3010HAV	3122BAN	3012BIJ	5750SAR	3017NCB	3047MON
3010NGS	3122TGC	3012OXF	3012TGT	3020SFB	3050LIL
3010TGT	3010BIJC	3012SFD	3013PRO	3025BER	3050SAR
3010WHE	343-8363	3040SAR	9250B	3025C	3060GFS
3040LAU	343-8399	3040SPR	3014LOL	3026CRT	3060TFS
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3040WDS	3111DPC	3060BTL	3015GFR	3030SAR	3040SPRC
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# BASIC 32

IRON COAT WAREHOUSE  
11 L. ST. NO. CA 92308

FROM:

WESTERN REPRODUCTION  
1500 N. CALIFORNIA AVE  
TAMPA FLORIDA 33604

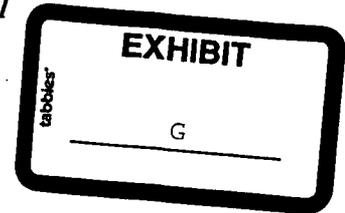
WIPAWALL  
WIPAWALL

SHIP TO

010

EXHIBIT  
F

*Subpoena of the Attorney General  
Subpoena Duces Tecum  
of the State of Illinois*



STATE OF ILLINOIS                    )  
  )  
COUNTY OF SANGAMON            )     THE PEOPLE OF THE STATE OF ILLINOIS  
  )     CONSUMER PROTECTION DIVISION

SUMMON YOU, **SFCA, Inc.**, that all business and excuses being laid aside, to produce for the Attorney General of the State of Illinois, or her duly authorized Assistant Attorney General Cassandra Karimi on or before September 5, 2008, in the office at 500 South Second Street, Springfield, Illinois, 62706, under the provisions of the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1 et seq.) and in connection with an investigation into the activities of Simplicity, Inc.; presently being conducted by the Attorney General, and produce, at the time and place aforesaid, the following books, records, documents and papers which the Attorney General deems relevant and material to the investigation, to wit:

**See attached subpoena rider**

Failure to comply with this subpoena may result in Court action against you.

WITNESS, Lisa Madigan the  
Attorney General of the State of Illinois  
and the seal thereof, at her offices  
in Springfield, Illinois this 28<sup>th</sup> day of August 2008.



*Elizabeth Blackston*  
\_\_\_\_\_  
Elizabeth Blackston  
Bureau Chief, Consumer Fraud Bureau

RETURN

I, the undersigned, having been duly authorized by the ATTORNEY GENERAL, State of Illinois, hereby certify that I did, on the 28<sup>th</sup> day of August 2008 serve a true copy of the foregoing subpoena upon SFCA, Inc. by enclosing the subpoena, certified mail, return receipt, in an envelope, postage prepaid to: SFCA, Inc. c/o Joel Z. Robinson & Co., 50 Broadway, Suite 2202, New York, NY 10004 and depositing the subpoena in the United States mail chute at 3:00 o'clock P.M.

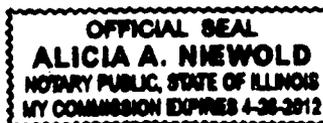
IN WITNESS WHEREOF, I hereby attest this 28<sup>th</sup> day of August 2008.

*[Signature]*  
Process Server

Signed and sworn to before me this

28<sup>th</sup> day of August 2008.

*[Signature]*  
Notary Public



No. 2008042

ATTORNEY GENERAL  
OF THE STATE OF ILLINOIS  
CONSUMER PROTECTION DIVISION

PEOPLE OF THE STATE OF ILLINOIS

v.

SFCA, Inc.

SUBPOENA  
DUCES TECUM

Deliver Subpoena to:

SFCA, Inc.  
c/o Joel Z. Robinson & Co.  
50 Broadway, Suite 2202  
New York, NY 10004

Mail subpoenaed documents to:

Cassandra Karini  
Office of the Illinois Attorney General  
500 South Second Street  
Springfield, IL 62706  
(217) 782-4436 (phone)  
(217) 782-1097 (fax)

RIDER TO SUBPOENA

STATE OF ILLINOIS )  
COUNTY OF SANGAMON )  
THE ATTORNEY GENERAL )  
OF THE STATE OF ILLINOIS )



Document #2008042  
People of the State of Illinois  
v.  
SFCA, Inc. (Respondent)

1. Please identify the corporate structure of SFCA, Inc. and provide incorporation documents.
2. Please produce the documents consummating the sale of Simplicity, Inc.'s assets to SFCA, Inc.
3. Does SFCA, Inc. manufacture children's products? Does SFCA, Inc. distribute children's products? Does SFCA, Inc. import children's products?
4. Is SFCA, Inc. currently manufacturing, importing, distributing, selling, or placing into the stream of commerce any bassinets with the same or a substantially similar design to the ones covered by the CPSC warning dated August 27, 2008 (Release #08-378) or causing such items to be manufactured, imported, distributed, or placed into the stream of commerce? If so, please identify these bassinets.
5. Has SFCA, Inc. ever had in its possession or inventory any of the bassinets covered by CPSC Release #08-378?
6. Please identify all SFCA, Inc. employees and for each indicate whether he or she was formerly a Simplicity, Inc. employee. Please provide an organizational chart for SFCA, Inc. employees.
7. Please identify all bassinet model numbers that SFCA, Inc. has manufactured, imported, distributed, sold, placed into the stream of commerce, or caused to be manufactured,

distributed, imported, sold, or placed into the stream of commerce. For each model number, please indicate the manufacture dates and distribution dates, and provide a product photo and the instruction booklet.

8. For each bassinet model number covered by CPSC Release #08-378, please do the following:
  - a. indicate the manufacture dates;
  - b. indicate the distribution dates;
  - c. indicate the number of units sold or distributed in Illinois;
  - d. identify all retailers located in Illinois, including online retailers, which carried or sold the bassinets;
  - e. identify all distributors located in Illinois which received the bassinets;
  - f. provide a product photo and the instruction booklet; and
  - g. the number of units returned to retail outlets or respondent from Illinois consumers.
9. All incident reports and consumer complaints concerning any bassinets manufactured, imported, distributed, sold, placed into the stream of commerce, or caused to be manufactured, distributed, imported, sold, or placed into the stream of commerce by either Simplicity, Inc. or SFCA, Inc..
10. All documents concerning SFCA, Inc.'s policies, procedures, and protocols related to testing, inspection, quality control and otherwise ensuring the safety of children's products that SFCA, Inc. manufactures, imports, distributes, sells, or places into the stream of commerce, including all such policies, procedures, and protocols that applied to the manufacture, distribution, importation, or sale of the bassinets covered by CPSC Release #08-378.
11. Please produce all documentation concerning the bassinet design change from the design of Simplicity bassinets covered by CPSC Release #08-378 to the current design(s)?