

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

TANEQUA MONIQUE BRAYBOY and
MICKEY FRED, as CO-ADMINISTRATORS
OF THE ESTATE OF C.D.F., TANEQUA
MONIQUE BRAYBOY, individually, and
MICKEY FRED, individually

Case No. 3:21-cv-00384-RNC

Plaintiffs,

v.

FISHER-PRICE, INC., MATTEL, INC., and
WAL-MART, INC.

APRIL 14, 2021

Defendants.

FIRST AMENDED COMPLAINT

FIRST COUNT:

**Tanequa Monique Brayboy and Mickey Fred, Co-Administrators
of the Estate of Cali Dream Fred v. Fisher-Price, Inc.- (Product Liability)**

1. On March 31, 2019, **CALI DREAM FRED** lost her life. On June 6, 2019 **TANEQUA MONIQUE BRAYBOY** and **MICKEY FRED** were appointed **CO-ADMINISTRATORS of the Estate of CALI DREAM FRED** in the District of Bridgeport, Probate Court No. PD48, and are duly authorized to act in that capacity.

2. This action is brought as a “product liability claim” within the meaning of that term as described in section 52-572m(b) of the Connecticut General Statutes and pursuant to and in accordance with the terms and provisions of the Connecticut “Product Liability Law” sections 52-572m through 52-572r of the Connecticut General Statutes.

3. At all times mentioned herein, the defendant, **FISHER-PRICE, INC.**, was a corporation organized to do business in the State of New York with a principal place of business located at 636 Girard Avenue, East Aurora, NY 14052.

4. At all times relevant hereto, the defendant was engaged in the business of designing, manufacturing, distributing and/or selling toys, family products, and child products including, but not limited to, the “Auto Rock ‘n Play Sleeper”, hereinafter referred to as the “Rock ‘n Play”.

5. The manufacture, distribution and/or sale of the Rock ‘n Play by the defendant was done with the reasonable expectation that said product was to be used or consumed in this State and/or was so used within the meaning of Connecticut General Statutes section 52-572m, et seq.

6. The subject Rock ‘n Play was purchased in a retail setting at the Wal-Mart Store # 2163 located at 465 Bridgeport Avenue in Shelton, Connecticut.

7. The subject Rock ‘n Play was purchased as a product intended to be used for its marketed and designed purpose: child rest, relaxation, placement, sleep, and/or sitting.

8. The defendant, **FISHER-PRICE, INC.**, first introduced the Rock ‘n Play line of products in or around 2009.

9. Since the defendant introduced the Rock ‘n Play into the marketplace, it had advertised and represented to its customers that the Rock ‘n Play products were a safe and convenient baby product. It was represented and marketed that: “The inclined seat helps your baby sleep all night”, “Baby can sleep at a comfortable **incline** all night long”, “This sleeper **rocks, hands free!**”, “This sleeper helps give your little one the customized soothing motions he or she loves, so you both can get some much needed shut-eye”, “Whether they need just a quick snooze or are ready to settle in for the night the Rock ‘n Play sleeper’s comfortable, restful environment and dual autorocking settings help teeny-tiny ones wind down and relax with a consistent routine”, “Inclined sleeper designed for all-night sleep”, “Baby can sleep at a comfy incline **all night long!**”

10. The Rock ‘n Play was marketed and represented as a product safe and suitable for use with infant aged children.

11. On March 31, 2019, the plaintiff was placed in the subject Rock ‘n Play sleeper for rest while in a state of good health and liveliness.

12. On March 31, 2019, the plaintiff was later found unresponsive while still lying in the subject Rock ‘n Play. The plaintiff was ultimately pronounced dead on March 31, 2019 at 5:52 a.m. She was two months, five days old at the time of her death.

13. Unknown to the plaintiff and her family, dozens of infants had previously died as a result of the dangerous and defective condition of the Rock ‘n Play.

14. The defendant had knowledge of the dangerous and defective nature of the Rock ‘n Play prior to the plaintiff’s death.

15. The defendant had been put on notice of other infant deaths prior to that of the plaintiff.

16. The defendant had been urged to stop selling and/or recall the Rock ‘n Play prior to the plaintiff’s death, yet failed to do so.

17. The line of Rock ‘n Play products was not recalled until after more than thirty infants died, such as the plaintiff, on April 12, 2019, less than two weeks after the plaintiff’s death.

18. The design, construction, and implementation of the Rock ‘n Play was dangerous and defective in one or more of the following ways:

- a. The Rock ‘n Play incorporated a dangerous and/or defective design which was not flat and forced an infant to sleep in an “L” shape with the knees flexed up toward the abdomen;
- b. The Rock ‘n Play held infants in an inclined position which allowed their head to roll downward and to the side- closing off the airway;
- c. The Rock ‘n Play was soft and plush rather than firm;

- d. The padding utilized and/or incorporated in the Rock ‘n Play created a suffocation risk when infants turn their head;
- e. It allowed and/or caused infants to roll from their back to their stomach or side while unrestrained; and,
- f. The Rock ‘n Play was marketed as a sleeper, when in fact it was unsuitable and unsafe for overnight or prolonged sleep.

19. As a result of the defective condition of the defendant’s product(s), specifically the Rock ‘n Play sleeper, the deceased plaintiff, **CALI DREAM FRED**, suffered the following injuries and losses:

- a. Positional asphyxiation;
- b. Suffocation and hypoxemia;
- c. Anoxic injury;
- d. Death; and,
- e. Pre-death pain and suffering both mental and physical.

20. As a further result of the defective condition of the defendant’s product(s), specifically the Rock ‘n Play, the plaintiff was forced to spend large sums of money for hospital and emergent medical care, and funeral expenses.

21. As a further result of the defective condition of the defendant’s product, the plaintiff has suffered the loss of life itself, and is thus unable to participate in and enjoy any activities of life.

22. As a further result of the defective condition of the defendant’s product, the plaintiff has suffered a loss of future earning capacity due to her death.

23. At the time the defendant manufactured, distributed and/or sold the product(s) which is the subject of this lawsuit, it was engaged in the business of selling infant, child, and family products, such as the Rock ‘n Play sleeper and was a “product seller” within the meaning of section 52-572m of the Connecticut General Statutes.

24. These defects caused the injuries, death, and losses for which the plaintiff seeks compensation.

25. These defects existed at the time the defendant sold the product.

26. At all times mentioned herein, the defendant’s product(s) was/were without substantial change from the condition in which it was manufactured, distributed and/or sold by the defendant.

27. At all times mentioned herein, the subject Rock ‘n Play was used as a sleeper in a foreseeable manner and was done so without modification, alteration, or disruption from its original factory design and production.

28. The plaintiff’s injuries and losses described above were also caused by the negligence of the defendant in one or more of the following ways:

- a. It failed to properly research the design of the Rock ‘n Play prior to its development and sale;
- b. It failed to properly inspect the Rock ‘n Play;
- c. It failed to properly test the Rock ‘n Play;
- d. The Rock ‘n Play incorporated a dangerous, unsafe, and/or defective design;
- e. The Rock ‘n Play was manufactured in a dangerous, unsafe, and/or defective way;
- f. The Rock ‘n Play incorporated several components and/or characteristics which led to infant death, such as that of the plaintiff;

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