

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

KARRY PEREZ, JOHN FITZGERALD,
KATHY CAPRON, MARK WADE,
JESSICA SHROPSHALL, and HADEL
TOMA, on behalf of themselves and others
similarly situated,

Plaintiffs,

v.

BRITAX CHILD SAFETY, INC.,

Defendant.

Civil Action No. 0:19-cv-01735-JMC

**ORDER PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

This matter having come before the court on the Joint Motion For Preliminary Approval of Class Action Settlement (ECF No. 34) (the “Motion”), the court having reviewed in detail and considered the Motion and Memorandum in Support of the Motion (ECF No. 34-1), the Class Action Settlement Agreement (ECF No. 34-2 at 11–27) (“Settlement Agreement”) between Karry Perez, John Fitzgerald, Kathy Capron, Mark Wade, Jessica Schropshall, and Hadel Toma (collectively “Plaintiffs”) and Britax Child Safety, Inc. (“Defendant”, and, together with Plaintiffs, the “Parties”), and all other papers that have been filed with the court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, and the court being fully advised, **GRANTS** the Joint Motion and

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Preliminary Approval Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.

2. The court has jurisdiction over the subject matter of this action, Plaintiffs, the Class Members, and Defendant.

3. The terms of the Settlement Agreement are preliminarily approved as fair, reasonable, and adequate. There is good cause to find that the Settlement Agreement was negotiated at arms-length between the Parties, who were represented by experienced counsel.

4. For settlement purposes only, the court finds that the prerequisites to class action treatment under Rule 23—including numerosity, commonality and predominance, adequacy, and appropriateness of class treatment of these claims—have been preliminarily satisfied. Provisional settlement, class certification, and appointment of class counsel have several practical purposes, including avoiding the costs of litigating class status while facilitating a global settlement, ensuring class members are notified of the terms of the proposed Settlement Agreement, and setting the date and time of the Final Approval Hearing.

5. The court hereby certifies, for purposes of Settlement, the following Settlement Class: all persons who owned a BOB Gear Jogging Stroller in the United States that was manufactured on or before September 30, 2015. The “Settlement Class” excludes: (a) counsel for Plaintiffs; (b) counsel for Defendant; and (c) Defendant’s employees, shareholders, distributors, investors, owners, consultants, agents, servants, employees, representatives, joint venturers, general and limited partners, officers, and directors.

6. Plaintiffs Karry Perez, John Fitzgerald, Kathy Capron, Mark Wade, Jessica Schropshall, and Hadel Toma are hereby appointed as Settlement Class Representatives.

7. Gary E. Mason of Mason Lietz & Klinger LLP, Charles Schaffer of Levin Sedran & Berman LLP, and D. Aaron Rihn of Robert Pierce & Associates, P.C. are hereby appointed Settlement Class Counsel.

8. The court approves the emailing of Notice, as mutually agreed to by the Parties, to all consumers who have consented to receive information emails from BOB Gear.

9. The court orders that, no later than thirty (30) days after entry of this Order, Defendant shall establish a Settlement website page (in both English and Spanish) that contains the Preliminary Approval Order, the Notice, the Settlement Agreement, and other relevant information regarding the Lawsuit as shall be ordered by the court.

10. The court further orders that no later than five (5) days after the Settlement website page is live, Defendant shall send notice of the Settlement, which shall include links to the Settlement website page and the Educational Video, by email to consumers who have consented to receive information emails from BOB Gear.

11. Defendant shall establish a toll-free telephone number that will provide the Settlement Class with access to pre-recorded information regarding the Settlement website page.

12. The court approves the objection process described by the Parties in the Settlement Agreement and orders: any Settlement Class Member wishing to object to the Settlement Agreement shall submit a timely and written notice of his or her objection within thirty (30) days from the date on which Notice commences. The notice of objection shall state: (i) the objector's full name, address, telephone number, and email address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (*e.g.*, a photo of the manufacturing codes on the affected BOB Stroller); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel representing the objector; (v) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vi) the objector's signature and the signature of the objector's duly authorized attorney

or other duly authorized representative (along with documentation setting forth such representation); and (vii) a list, by case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement within the last three (3) years. Notice must be filed with the Clerk of Court and served concurrently on Proposed Class Counsel Gary E. Mason, Mason Lietz & Klinger LLP, 5101 Wisconsin Avenue NW, Ste. 305, Washington, DC 20016; and counsel for Defendant, Lori B. Leskin, Arnold & Porter Kaye Scholer LLP, 250 West 55th Street, New York, NY 10019-9710, no later than thirty (30) days from the date on which the Notice Program commences.

13. Objections not filed and served in accordance with this Preliminary Approval Order shall not be received or considered by the court. No Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Preliminary Approval Order and in the Settlement Agreement are fully satisfied. Any Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, or who does not appear at the Final Approval Hearing, shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Approval Order.

14. Defendant shall pay all costs related to notice and administration of the settlement.

15. This court shall hold a Final Approval Hearing at 10 a.m. on Thursday, October 29, 2020, at the Matthew J. Perry, Jr. United States District Courthouse in Columbia, South Carolina. The court will consider requests by the parties or their attorneys to appear at this hearing by telephone or videoconference.

16. All proceedings in this action are stayed pending the Final Fairness and Approval

Hearing.

17. Plaintiffs' motion for final approval of the settlements and for approval of attorneys' fees, costs, and Plaintiffs' service awards shall be filed no later than fourteen (14) days prior to the Final Fairness and Approval Hearing.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

September 3, 2020
Columbia, South Carolina