

**U.S. Consumer Product Safety Commission
LOG OF MEETING**

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SUBJECT: Meeting with representative of the American Association for Justice

DATE OF MEETING: May 31, 2007

LOG ENTRY SOURCE: Pamela Weller

DATE OF LOG ENTRY: June 11, 2007

LOCATION: Room 725, CPSC headquarters

**CPSC ATTENDEE(S): Michael Gougisha and Pamela Weller, counselors to
Commissioner Moore; David DiMatteo, counselor to Acting Chairman Nord**

**NON-CPSC ATTENDEE(S): Gerie Voss, Regulatory Counsel, American
Association for Justice**

**SUMMARY OF MEETING: Ms. Voss said that the American Association for Justice
(AAJ) had started a regulatory advocacy program about a year ago to monitor and
advocate on their members' behalf before federal agencies and Congress.**

**She said that preemption was a major issue for her organization. She asked
how the preemption language got into the Final Mattress Rule. Ms. Weller told
her that since the Executive Order of 1996, the agency had described in each
proposed and final rule what the relevant governing statute said on preemption,
but not until the Mattress Final Rule had there been any attempt to interpret that**

language. Ms. Voss asked whether future rules would have such language and was told it depended on a number of things, including what statute the rule was promulgated under, but that our office did not usually know what was in a rule's preamble until we got the staff draft for any particular rule. Ms. Voss asked if there had been discussions about the preemption language prior to its being put into the Final Mattress Rule. Ms. Weller indicated she did not want to go into the internal agency deliberative process, but that Ms. Voss should look at Commissioner Moore's statement on that Rule. Ms. Voss provided copies of a white paper on preemption done by the Center for Progressive Reform.

Ms. Voss mentioned her organization's opposition to the nomination of Mr. Baroody for the agency Chairmanship, saying they had been worried about his ability to be unbiased and that it was the first time they had taken a position on any nomination, judicial or otherwise. She indicated they would be taking positions on nominations in the future and they would be particularly interested in CPSC and the FDA.

She said her organization had been concerned about the changes that were made to the regulations governing section 15(b) of the CPSA.

When asked by Ms. Weller whether AAJ would comment on any substantive changes Congress might decide to make to our authorizing statutes, she said yes. Ms. Voss also said AAJ would support an increase in the civil penalty cap.

Ms. Voss asked about the agency's position on product registration cards and Ms. Weller told her the agency had already addressed the subject, voting to deny a petition that would have required product registration cards for infant and juvenile products. Ms. Voss was told that Commissioner Moore had voted for the petition, primarily as a way to put the entire recall effectiveness issue into a structured setting that would require action, but he was outvoted. There was then some discussion about the difficulty of getting people to return product registration cards and what types of products people were most likely to return them on.

Mr. Gougisha told her that bills had been introduced in the House on both product registration cards and the civil penalty cap and he gave her the bill numbers. Ms. Weller also alerted her to the possibility of a hearing in the House the following week on pending legislation affecting the Commission.