INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

May 3, 2021

Mr. Bruce York
Chief, VDD-B Division
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: PE21-007
NEF-0102sw
Britax Child Safety Inc.

Dear Mr. York:

This responds to your letter of March 23, 2021 requesting certain information about the Britax Frontier Click Tight child seat and about certain other automotive child restraints manufactured by Britax. As you requested, Britax is repeating each question before each response. The last date that information was gathered for this response was April 30, 2021. All of the information and data provided in this response were located in Britax's business records.

1. *State by model and production year, the number of Peer child seats Britax has manufactured.*

Britax's response: As agreed with you, Britax has interpreted the term "Peer child seats" to exclude belt positioning boosters. See attached excel labeled "REQUEST NUMBER ONE DATA."

2. *State the number of each of the following, received by Britax, or of which Britax is otherwise aware, which relate to, or may relate to, the alleged defect in the Subject and Peer child seats*:

a. *Consumer complaints;*

Britax's response: 0

b. *Field reports, including retailer field reports;*

Britax's response: 0

c. *Reports from retailers and distributors, and from seat providers and installers (including Child Passenger Seat Technician (CPST), but not limited to hospital, police department, SAFEKIDS, field reports etc.);*

Britax's response: 1 (same incident reported in DP 20-003; all applicable documentation was previously submitted in Britax's response to DP 20-003).

d. *Property damage claims*;

Britax's response: 0

e. *Third-party arbitration proceedings where Britax is or was a party to the arbitration; and*

Britax's response: 0

f. *Lawsuits, both pending and closed, in which Britax is or was a defendant or codefendant.*

Britax's response: 0

3. *Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:*

a. *Britax's file number or other identifier used;*
b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
c. Child seat owner, street address, email address and telephone number;
d. Child seat's serial number and date and manufacture;
e. Child seat's brand, model name, and model number;
f. Child seat's age at time of incident;
g. Child seat's location (position) in the vehicle;
h. Installation method used to secure the child seat to the vehicle;
i. Britax's assessment of the child seat's performance in the crash event;
j. Description of the failure mode and mechanism (which parts/systems failed and why);
k. Incident date;
l. Report or claim date;
m. Number of alleged injuries, if any; and
n. Number of alleged fatalities, if any.

Britax's response: Britax does not have any additional applicable information[1] to submit for this request.

4. *Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Britax used for organizing the documents. Describe in detail the search methods and search criteria used by Britax to identify the items in response to Request No. 2.*

Britax's response: Britax does not have any additional applicable information[2] to submit for this request.

[redacted]

[1] All applicable documentation was previously submitted in Britax's response to DP 20-003.
[2] See above.

[redacted]

5. *For each unique type or design level of harness height adjusting system used on the Peer child seats, provide the following information*:

a. *The relevant sections of the owner's manual that discusses and describes the operation and adjustment of the harness height, including any warnings or cautions provided*;

Britax's response:

See file labeled REQUEST NUMBER 5A.

b. Photographs, drawings, and/or diagrams that depict the componentry, design elements and the functionality of the harness height adjustment system; and,

Britax's response:

As agreed with you, Britax is providing the requested information in the form of photos of each model group. See file labeled REQUEST NUMBER 5B_5C.

c. Britax's assessment(s) as to any similarities and/or differences between the subject child seat harness adjusting system and that used on the Frontier ClickTight, including any shared componentry or design elements.

Britax's response:

As agreed with you, Britax is interpreting this question to seek Britax's assessment as to the similarities and differences between the peer child seats and the Frontier ClickTight.

[redacted]

6. *On August 19, 2020, representatives from ODI and Britax conducted an inspection of the child seat that was the subject of DP20-003, a Britax Frontier ClickTight XE, model E1A076L manufactured in 2015 (see Vehicle Owner Questionnaires 11319247 and 11317879, available at NHTSA.gov), and an inspection of the vehicle the child seat was installed in, a model year 2016 Nissan Rogue. The inspections took place in Hagerstown, MD (child seat) and Chambersburg, PA (incident vehicle) and all parties in attendance were provided the opportunity to physically inspect and photograph the child seat and vehicle. Neither Britax nor ODI took physical possession of any evidence from either inspection.*

Information in red text box is Confidential Business Information

ODI is requesting Britax provide any assessments, analyses, testing, hypotheses, theories, or other such information the company has produced that explain, or may explain the potential cause, or causes of the failure of the harness adjusting system of the subject DP20-003 Britax Frontier ClickTight XE car seat, including any design or manufacturing related causes, seat installation or usage errors, or the existence of any prior damage to the seat that may have been a factor.

[redacted]

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With a Request for Confidential Treatment

7. *Furnish Britax's assessment of the alleged defect in the Subject and Peer child seats, including: a. Any causal or contributory factor(s);*

b. The failure mechanism(s)/failure mode(s);
c. The risk to child seat safety that it poses;
d. What warnings, if any, the child seat owner or caregiver would have that the alleged defect was occurring; and
e. The reports submitted in response to this information request.

Britax's response:

It is Britax's position the Subject child seats and Peer child seats (i) do not contain a defect; (ii) meet or exceed the requirements of Federal Motor Vehicle Safety Standard ("FMVSS") No. 213; and (iii) pose no unreasonable risk to motor vehicle safety as compared to any other child seat in a vehicle that satisfies FMVSS No. 213.

In response to this information request Britax reviewed its records, and with over two million Subject and Peer child seats manufactured, it has received no other report of a Subject or Peer child seat failing structurally during, or otherwise incurring structural damage as a result of, a vehicular crash event.[3]

As discussed in Britax's response to the DP20-003 information request in May 2020, the Subject child seat was initially tested and certified by MGA in 2013 and tested each fiscal year thereafter through 2019 in connection with NHTSA's ongoing compliance testing. The Subject child seat passed all tests conducted by Britax and MGA in strict conformance with the test procedures of FMVSS No. 213 since its launch in 2013.

In its response to the DP20-003 information request, Britax also discussed additional dynamic crash testing of the Subject child seats it conducted. Specifically, Britax tested Subject child seats with a 2015 date of manufacture in efforts to reproduce the event in the incident crash that led to this investigation. Britax performed dynamic testing with a weighted 3-year-old test dummy (40 pounds) harnessed in the subject child seat with lower anchors and tethers for children (LATCH) installation in accordance with FMVSS No. 213. The seat passed FMVSS No. 213, the rip stitching tore, and no structural failure was identified. Britax also performed dynamic testing with a weighted 6-year-old test dummy (65 pounds) harnessed in the subject child seat with LATCH installation. Although this is not a permissible test configuration pursuant to FMVSS No. 213 because the weight limit exceeds the amount permitted by LATCH installation, the seat passed the parameters of FMVSS No. 213, the rip stitching tore, and no structural failure was identified despite such overload testing.

As NHTSA has noted in other contexts, NHTSA's safety standard FMVSS 213 establishes the acceptable performance requirements for child restraint systems. In 1996, Consumers Union filed a petition for a defect investigation of certain Century Products child restraints, based on some dynamic test results obtained by CU in its laboratory. The CU tests were not conducted in accordance with all FMVSS 213 test procedures. NHTSA denied the petition, noting:

> When a safety standard establishes minimum performance requirements for motor vehicles or items of motor vehicle equipment through the use of specific values for

[3] The only reported incident received by Britax is the vehicular crash event cited in DP20-003.

> particular parameters, as is the case here, NHTSA does not consider performance failures at higher levels to, in themselves, demonstrate that a safety related defect exists. … Thus, given the fact that the Century Model 590 appears to satisfy the performance requirements of FMVSS No. 213 when tested with a 17-pound test dummy utilizing a conforming acceleration pulse, its performance with heavier dummies or at higher test speeds and accelerations does not indicate the existence of a safety defect. 61 Fed. Reg. 10059, 10061 (March 12, 1996).

NHTSA denied a similar petition from Consumers Union regarding certain Evenflo child restraints, making nearly identical observations about the effect of meeting applicable FMVSS performance requirements. 62 Fed. Reg. 3077 (January 21, 1997). And recently, NHTSA reiterated this general point in an interpretation notice entitled "Notice Regarding the Applicability of FMVSS Test Procedures to Certifying Manufacturers," 85 Fed. Reg. 83143 (December 21, 2020). In this interpretation notice, NHTSA stated:

> When NHTSA establishes a performance standard in the form of an FMVSS, the Agency is declaring the requisite minimum threshold metric to meet the need for motor vehicle safety in that aspect of performance. In so doing, the Agency bars itself from declaring a vehicle defective solely on performance meeting that specific and discrete threshold. (Footnote omitted.) 85 Fed. Reg. at 83150.

Here, where there is ample and uncontroverted evidence that the Subject child seats meet FMVSS 213, and indeed, meet the performance requirements of FMVSS 213 with a heavier dummy than contemplated by the standard, there is no basis to find a crashworthiness defect in the Subject child seats based on a single incident that Britax has been unable to replicate.

The significant damage to the front end of the vehicle involved in the incident crash suggests that the crash forces were severe. The report of the Chief Medical Examiner for the State of Maryland indicates that the child weighed 44 pounds, which is 10% higher than the maximum recommended weight (40 pounds) for a LATCH installation of the Subject child seat. Moreover, the Subject child seat in the incident crash was reported to have four inches of movement after examination by the Child Passenger Safety Technician. This exceeds the User Manual instruction of only one inch of permitted movement for a secure installation. In addition, as further explained and exhibited in Section 6 of this response, the Subject child seat inspected appears to have significant signs of misuse for installation of both the child to the car seat and the car seat to the vehicle. Therefore, the contributing factors to this incident are likely due to the severe nature of the accident and evidence of significant misuse. Britax also notes that the prior usage of the incident seat is still unknown, as cited in the ODI resume.

Although the primary protection for occupants of a vehicle in a collision is the body of the vehicle itself, a correctly installed child seat will substantially improve chances for survival in most crashes. Over the last couple years, Britax has received many testimonials of children who have survived serious vehicular crash events installed in Britax harness-to-booster seats. A few examples of these incidents are included below.

Contains Personal Identifying Information

- Testimonial A, March 27, 2021:

[redacted]

Hello! I just wanted to tell you thank you for making such wonderful carseats. Yesterday my family was hit by a semi going 60mph. My children walked away with minor injuries. The older two (6 and 8) have one whiplash and a minor hit to the head. My baby (6 months) sustained zero injuries. We were in a 5 car pile up and were physically hit by the semi and My children walked away. Your seats are a reason for that. I can't thank you enough for all you do to help keep children safe. I am a bit sad that I cannot purchase new Frontiers for my older children as we LOVE this seat. We are going to try your new highback booster out. We will definitely be purchasing another one-4-life for the baby. Thank you for helping keep my babies safe in a situation I never imagined we would be in.

Show Less

ar 27, 2021

[redacted]

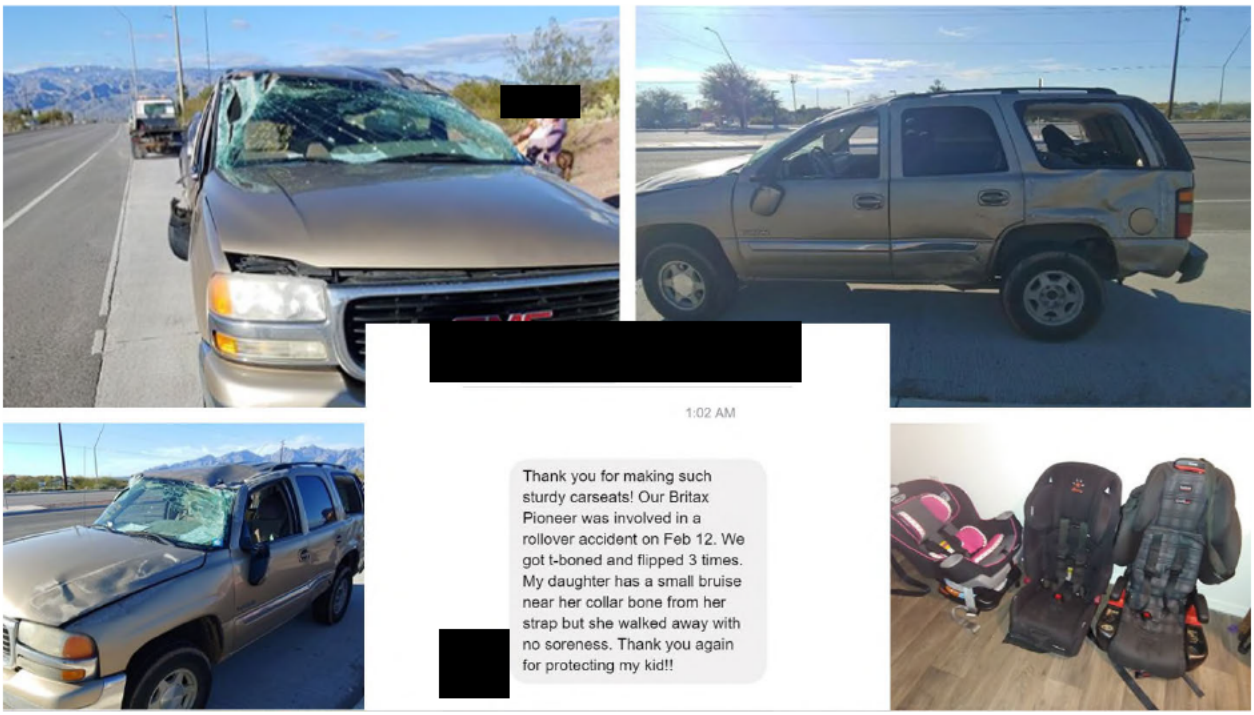
My 6 year old was in the back of this vehicle and it was struck by a semi. She has a bump on her head and a small cut about dime size on her arm. Your seat is a huge part of the reason she is doing so well. Thank you. I can never thank you enough for you fantastic seats.

Mar 27, 2021

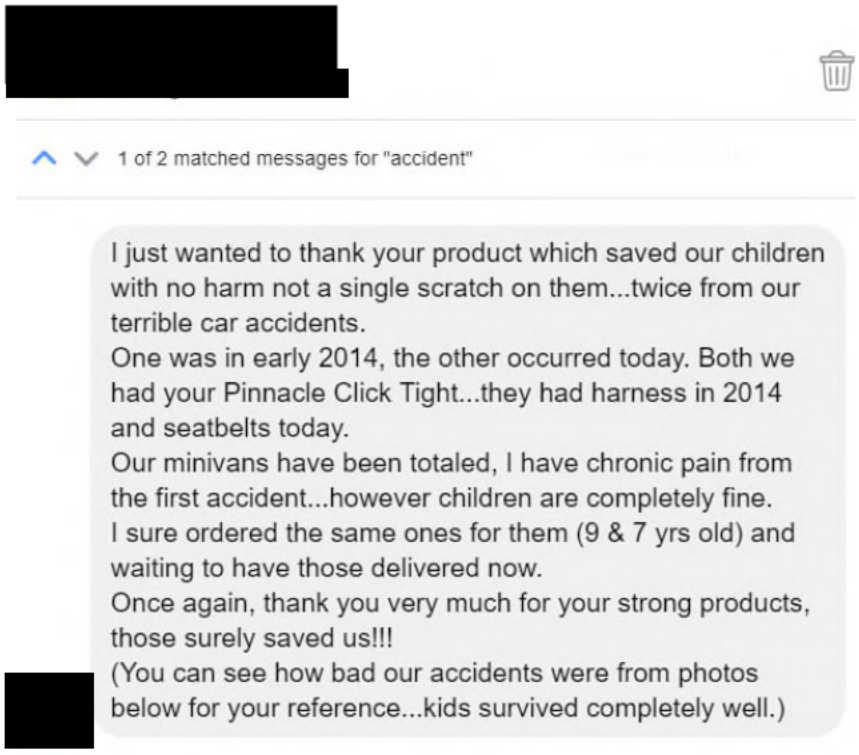

[redacted]


[redacted]

- Testimonial B, February 2020.



- Testimonial C, March 13, 2019.



Contains Personal Identifying Information



You saved these two twice, without those car seats, things could've been different.
Thank you very much for your continuous hard work to protect children 😊

[redacted]

MAR 13, 2019, 7:42 AM

- Testimonial D, June 26, 2019.

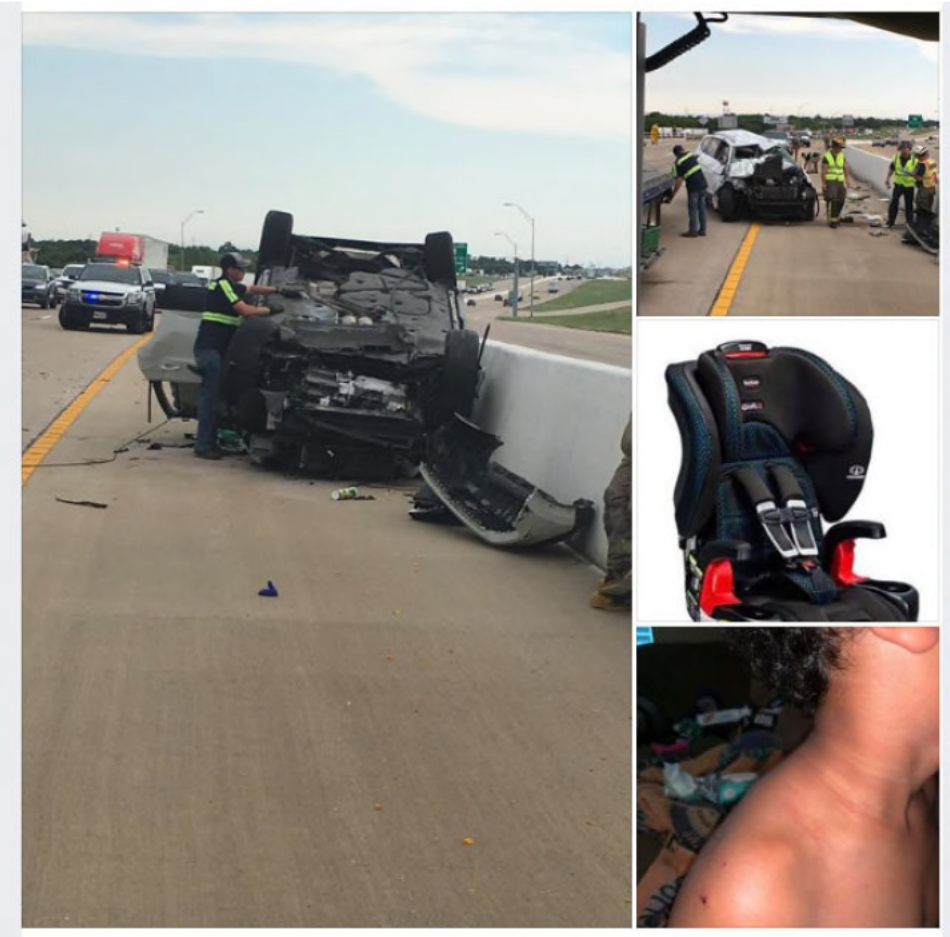
[redacted]

Because of your quality car seats, my boy walked away from this accident Monday with only those tony scratches on his shoulder and a tiny bit of belt burn.
He has had not one complaint of pain since the accident.
Thank you for such a trusted brand.
I'll be sad to put out to the trash but once we have another vehicle, Britax will be the brand we buy again and again.
Thank you from the bottom of my heart.
Customer forever!

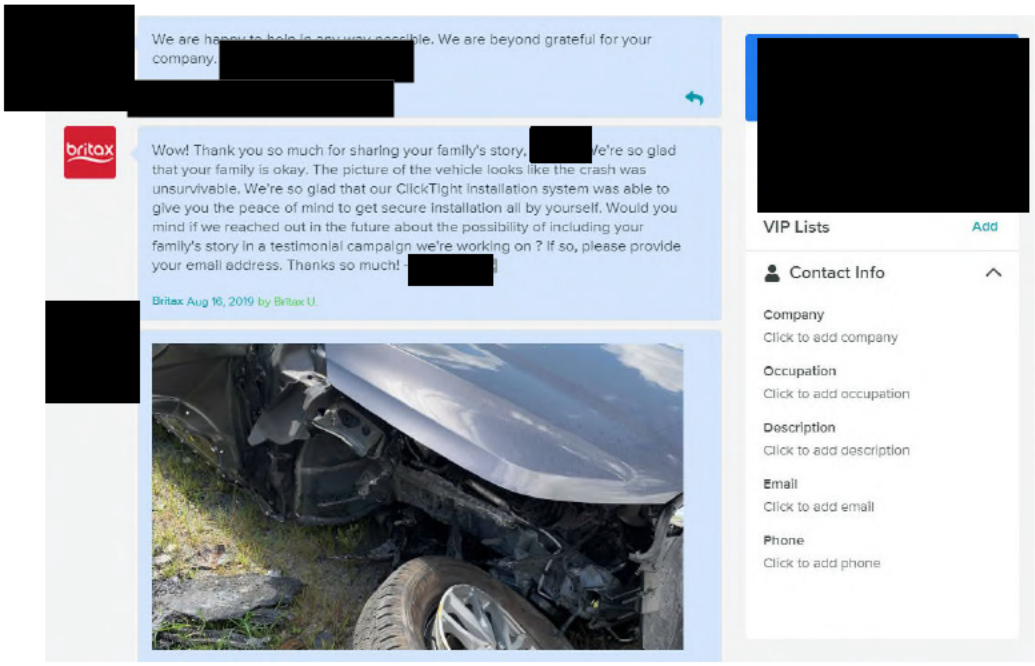


[redacted]

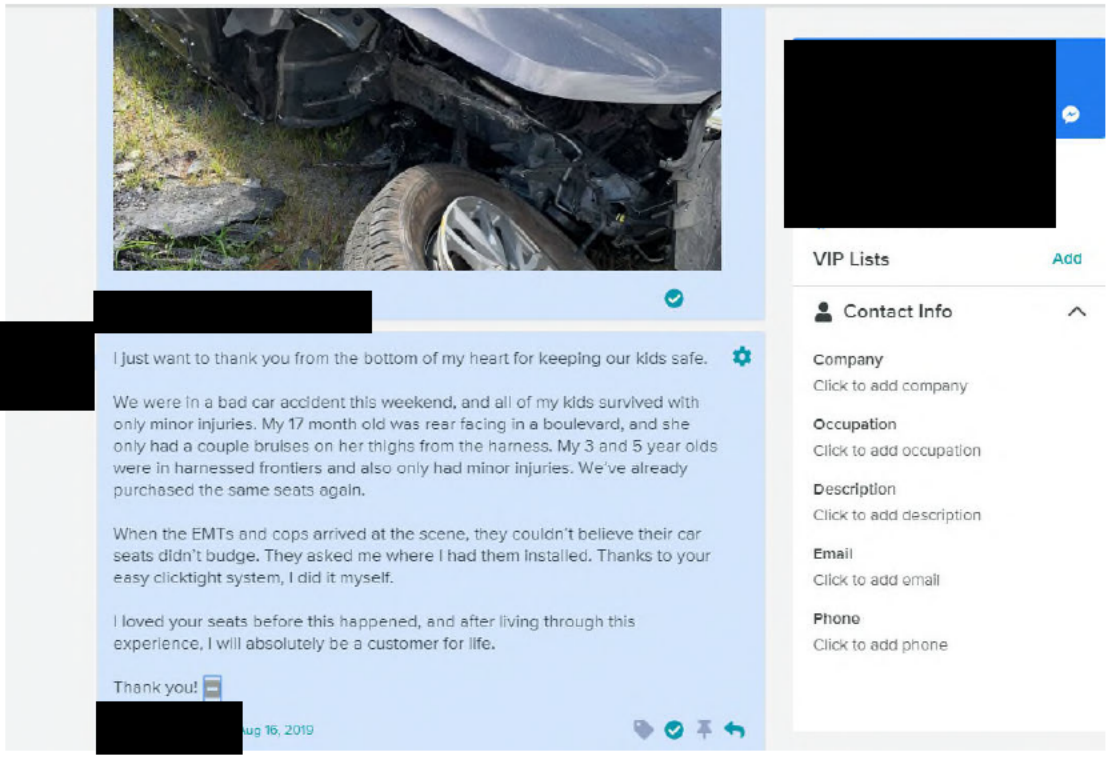
5 Reactions 3 Comments 1 Share



- Testimonial E, August 16, 2019.



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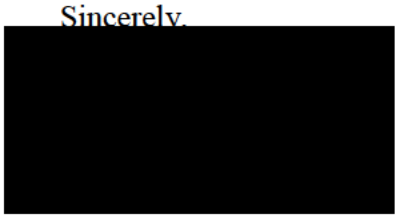


- Testimonial F, December 6, 2018



For all of these reasons, Britax's assessment is that neither the Subject child seats nor the Peer child seats contain a defect in design or manufacturing, and that the performance of the Subject child seat in one severe vehicular crash does not establish a defect or an unreasonable risk to motor vehicle safety. Britax respectfully requests that ODI close the preliminary evaluation on the basis that there is no defect.

Sincerely,



Anna M. Early
General Counsel, the Americas
Britax Child Safety, Inc.