

CPSC Bumps Up Litigation Strategies Another Notch

Christie Grymes Thompson

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The Consumer Product Safety Commission (“CPSC”) continues its increased willingness to use litigation as a tool when targeted companies disagree with the CPSC’s position, recently initiating two lawsuits seeking civil penalties and injunctive relief. Both indicate new strategies in litigation.

In the first [lawsuit](#), the CPSC and the Department of Justice (“DOJ”) seek a civil penalty and injunctive relief from Michaels Stores Procurement Co. Inc. (“Michaels”). The lawsuit alleges Michaels failed to timely report that the glass walls of certain vases that Michaels sold and imported were too thin to withstand normal handling, posing a laceration hazard to consumers. Adding a new twist, the CPSC and DOJ also allege that, when Michaels did report, it conveyed the false impression that it had not imported the vases and had acted only as a retailer, avoiding responsibility for the recall of the vases.

In the second [lawsuit](#), filed by DOJ, the government alleges that novelty magnet company Zen Magnets LLC offered for sale products that were subject to a voluntary recall and to a CPSC order. The suit alleges that Zen Magnets bought over 900,000 magnets from Star Networks USA LLC, which had previously agreed to recall its Magnicube sets in connection with a settlement with the CPSC, and rebranded and repacked the magnets. On May 14, a federal judge granted a preliminary injunction to halt the sale of the hazardous magnets. U.S. District Court Judge Christine M. Arguello of the District of Colorado found a strong likelihood that the defendants had violated the Consumer Product Safety Act and a cognizable danger of recurring violations in the future.

These cases demonstrate that companies subject to the CPSC’s laws and regulations should closely evaluate the veracity and extent of information submitted to the CPSC and should implement steps to avoid the resale, even if unintentional, of recalled products.