

# Michaels Stores Inc. Agrees to Pay \$1.5 Million CPSC Civil Penalty

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Last week, the Department of Justice (“DOJ”) announced that Michaels Stores Inc. has agreed to pay \$1.5 million in civil penalties to settle allegations that Michaels failed to file a timely report about a safety hazard associated with a large glass vase that Michaels sold. In 2015, DOJ filed a complaint on behalf of the Consumer Product Safety Commission (“CPSC”) against Michaels, an arts and crafts retailer, with charges that the company knew of multiple consumer injuries for over a year before reporting to the CPSC. Section 15(b) of the Consumer Product Safety Act requires manufacturers, importers, distributors, and retailers to report *immediately*, which is defined as “within 24 hours of obtaining reportable information,” if a product has the potential to create a substantial hazard due to a defect, presents an unreasonable risk of serious injury or death, or fails to adhere to a consumer product safety rule or standard. If a company is unsure whether or not a report is required, it may investigate for up to ten working days.

Michaels sold about 200,000 vases, and the CPSC and DOJ alleged that the products could shatter in consumers’ hands because they were too thin to withstand the pressure of normal handling. Injuries reportedly associated with the breaking glass included permanent nerve damage and lacerations requiring stitches. Michaels, as the complaint asserts, “possessed information that the vases had injured one consumer in 2007 and at least four customers in the first half of 2009,” but did not report to the CPSC until February 2010.

In an unusual move for DOJ and CPSC, the original complaint alleged that, once Michaels notified the CPSC, it falsely conveyed how the glass vases were acquired, so DOJ also brought a material representation count. Specifically, the report Michaels submitted to CPSC stated that the vases were purchased from a vendor, but records identified Michaels as the importer. In April 2017, dropped the material misrepresentation claim to focus on the civil penalties and injunctive relief.

In addition to paying the civil penalty, consistent with previous civil penalties, Michaels must implement a compliance program to ensure timely and accurate reporting to the CPSC in the future.

To avoid similar consequences, companies should remember the very low bar for what triggers a Section 15(b) Report to the CPSC, even for products like glass vases that have inherent properties that could cause an injury.