



# ALSTON & BIRD

## CPSC RECALL SNAPSHOT

A MONTHLY REVIEW OF CONSUMER PRODUCT RECALLS  
AND CIVIL PENALTIES ANNOUNCED BY THE CPSC

October 2017

Welcome to the October edition of the Alston & Bird *CPSC Recall Snapshot*.

There have been several recent noteworthy events involving the CPSC. In September, President Trump [announced his intent to nominate Dana Baiocco](#), a partner at Jones Day, to serve as a CPSC commissioner. If confirmed, Baiocco will replace current commissioner Marietta S. Robinson, whose term expires on October 27, 2017. And less than a month after the announcement of the nomination of Baiocco, Commissioner Joseph Mohorovic, one of the two Republican commissioners currently at the CPSC, resigned almost two full years before his term was set to expire in October 2019. This resignation will give President Trump an opportunity to make another nomination to the CPSC much earlier than expected, but may also prevent the Republican majority at the commission that seemed imminent with the nomination of Baiocco. Before Mohorovic's resignation, the replacement of Democratic Commissioner Robinson with Republican Baiocco would have shifted the balance of the commission from its current 3–2 Democratic majority to a 3–2 Republican majority. The vacancy created by Mohorovic's resignation, however, means that if Baiocco is confirmed, the commission will be tied with two Democratic and two Republican commissioners until Mohorovic's seat is filled.

In other news, in a rare occurrence, a federal judge in Wisconsin entered a \$1.94 million judgment against an importer for failing to report a defect in coffee makers that led to dozens of reported burns. The court ordered the firm to make the payment by October 30, 2017, and issued a permanent injunction requiring the firm to fully comply with the Consumer Product Safety Act and the CPSC's regulations. The injunction also involves certain compliance program requirements to be implemented within six months. Before issuing its judgment, the court rejected numerous motions for summary judgment in which the firm argued that the CPSC's reporting requirements violated its due process rights, that the CPSC's finding of an untimely reporting was "not the product of reasoned decision-making," that the reporting requirements were excessively vague, and that the statute of limitations had expired. A copy of the court's opinion can be found [here](#). Interestingly, the \$1.94 million judgment is significantly less than the civil penalty settlements for late reporting reached in 2017, which have ranged from \$4.65 million to \$5.8 million.

Click [here](#) to subscribe to the *Snapshot*. For additional information or questions about CPSC issues, please email me at: [jenifer.keenan@alston.com](mailto:jenifer.keenan@alston.com).

Sincerely,



[Jenifer Keenan, Esq.](#)

Editor

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### Voluntary Recalls Announced by the CPSC in September 2017

#### NUMBER OF RECALLS BY PRODUCT CATEGORY

Child/Infant – 6

Furniture – 3

Housewares – 3

Sporting Goods – 3

Vehicle – 3

Yard Equipment – 1

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Bib and Bootie Set <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	1,500
Nightlight Soother <a href="#">Press Release</a>	Child/Infant	Shock Hazard	1	130,000 U.S. 21,500 Can.
Slap Bracelet <a href="#">Press Release</a>	Child/Infant	Laceration Hazard	5	79,000 U.S. 7,000 Can.
Sleepwear <a href="#">Press Release</a>	Child/Infant	Burn Hazard	0	950
Stroller <a href="#">Press Release</a>	Child/Infant	Fall Hazard	1	28,000
Fleece <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	2,000
Chest of Drawers <a href="#">Press Release</a>	Furniture	Entrapment/ Tip-Over Hazard	1	1.6 million U.S. 1,000 Can.

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Patio Set <a href="#">Press Release</a>	Furniture	Fall Hazard	1	45,200
Dresser <a href="#">Press Release</a>	Furniture	Entrapment/ Tip-Over Hazard	0	175,000 U.S. 3,000 Can.
Grill/LP Regulator <a href="#">Press Release</a>	Housewares	Fire/Burn Hazard	5	21,700 U.S. 8,200 Can.
Stake Light <a href="#">Press Release</a>	Housewares	Fire Hazard	0	8,700 U.S. 10,000 Can.
Fireworks <a href="#">Press Release</a>	Housewares	Burn/Fire/Impact Hazard	0	13,050
Ski/Snowboard Helmet <a href="#">Press Release</a>	Sporting Goods	Head Injury Hazard	0	7,000 U.S. 1,000 Can.
Multisport Helmet <a href="#">Press Release</a>	Sporting Goods	Head Injury Hazard	0	4,600
Resistance Tube <a href="#">Press Release</a>	Sporting Goods	Injury Hazard	3	207,500
Motorcycle Clip-on Handlebar <a href="#">Press Release</a>	Vehicle	Crash Hazard	0	3,000
Off-Road Motorcycle <a href="#">Press Release</a>	Vehicle	Crash/Injury Hazard	0	5,700
All-Terrain Vehicle <a href="#">Press Release</a>	Vehicle	Fire Hazard	0	20,000
Lawn Tractor/ Transmission <a href="#">Press Release</a>	Yard Equipment	Crash Hazard	0	30,000 U.S. 1,200 Can.

### Civil Penalties Announced by the CPSC in September 2017.

PRODUCT	PRODUCT CATEGORY	BASIS FOR PENALTY	CIVIL PENALTY AMOUNT
Coffee Maker <a href="#">Press Release</a>	Housewares	<p>Knowing failure to report a defect and an unreasonable risk of serious injury with coffee makers.</p> <p>The knowing failure to report began in 2008, when the company began receiving what would add up to more than 1,600 consumer complaints, including more than 65 reports of burns. The company redesigned the coffee maker carafe in 2009 but did not report the defect and implement a recall until 2012. The company sold more than 600 coffeemakers after implementing the recall.</p>	\$1.94 million

Alston & Bird helps companies navigate the CPSC's complex regulations—from testing, to labeling, to recalls—and everything in between. We also help companies monitor and respond to complaints submitted to the CPSC's consumer complaint database, [www.SaferProducts.gov](http://www.SaferProducts.gov). For additional information or questions about recalls, the SaferProducts.gov database or other CPSC issues, please email [jenifer.keenan@alston.com](mailto:jenifer.keenan@alston.com) or visit the firm's website at [www.alston.com](http://www.alston.com).

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