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## **Consumer Groups Challenge Company's Attempt to Hide Its Lawsuit Over a New Federal Product Safety Database**

### ***Anonymous Company's Case Could Jeopardize Consumer Product Database, Other Federal Databases***

WASHINGTON, D.C. – Public Citizen, Consumer Federation of America and Consumers Union today asked a federal court to deny a company's motion to seal all papers filed in its lawsuit against the Consumer Product Safety Commission (CPSC). In the underlying case, the company is trying to block the CPSC from posting on a publicly accessible database a consumer's report of harm apparently caused by one of the company's products.

The consumer groups' objection to the motion to seal explains that keeping the case hidden from the public would violate a right of public access to court records, recognized under both the First Amendment and common law. In addition, the underlying case is of significant public interest because if the company is successful in keeping the consumer's report from the public, the existence of the CPSC database and other federal agency databases used to provide consumers with information about potentially hazardous products could be jeopardized, the consumer groups said.

"A challenge to an important product safety law should not proceed in secret just because the company wants to avoid bad publicity about one of its products," said Scott Michelman, the Public Citizen attorney representing the three organizations. "The public has a strong interest in the outcome of this lawsuit and a correspondingly strong right to learn who is involved, what arguments the company makes and the basis for the court's decision."

The CPSC's searchable online database, available at [www.saferproducts.gov](http://www.saferproducts.gov), was launched in March to provide consumers with information about potentially dangerous products. Congress called for its creation in the Consumer Product Safety Improvement Act of 2008, which was passed in the wake of a spate of recalls of millions of children's products. Already,

more than 3,300 reports have been filed in the database about kitchen appliances, nursery equipment, clothing, toys, electronics and more. The site has received more than 305,000 visits.

The agency is required by law to post consumer complaints within 20 business days of receiving them. Before complaints are posted, the product manufacturers are notified and given a chance to respond. If the information submitted is shown to be untrue, the complaint is corrected or removed from the database.

On Oct. 17, the company, whose identity is not publicly known, filed its suit in the U.S. District Court for the District of Maryland. In an unusual move, the company asked the court to seal all proceedings in the case – which would mean that the company’s name, the facts of the case and the legal arguments would not be made public.

The case remains under seal while the court considers the motion to seal. The consumer complaint at issue in the case has not yet been put in the database.

The CPSC database is modeled after databases on the websites of the National Highway Traffic Safety Administration, created in 1996 to provide access to consumer complaints about automobiles, and the Food and Drug Administration, also available since 1996 to provide information about adverse events related to drugs and medical devices.

“This database was created because people were in the dark about potentially lethal product hazards that manufacturers and sometimes the government were aware of,” said Rachel Weintraub, director of product safety and senior counsel for Consumer Federation of America. “Consumers were unwittingly using and allowing their children to play with these dangerous products. We should not turn the clock back on this important consumer protection.”

Added Ami Gadhia, senior policy counsel for Consumers Union, “This database is a critical tool for consumers to read and report safety complaints about the products we buy. We’re opposed to any effort that could jeopardize this database and lead to unsafe products being kept secret from the public.”

Because the entire case is under seal pending the judge’s decision on the motion, the groups’ objection was required to be filed under seal. Therefore, although the objection is based on publicly available information and research, the groups cannot share it publicly at this time.

Scott C. Borison of Frederick, Md., is serving as local counsel for the consumer groups.

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Public Citizen is a nonprofit consumer advocacy organization based in Washington, D.C. The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research,

advocacy and education. Consumers Union Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for health reform, food and product safety, financial reform, and other consumer issues in Washington, D.C., the states, and in the marketplace.