

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NATURAL RESOURCES DEFENSE
COUNCIL, INC., AND
PUBLIC CITIZEN, INC.

Plaintiffs

v.

U.S. CONSUMER PRODUCT SAFETY
COMMISSION

Defendant

:
:
:
:

08 Civ. 10507 (PGG)

January 16, 2009

**MEMORANDUM OF LAW IN SUPPORT OF STATE OF CONNECTICUT’S MOTION
FOR PERMISSION TO FILE AMICUS CURIAE BRIEF**

The State of Connecticut seeks this court’s permission to file an amicus curiae brief regarding the issues raised by the above captioned matter. (Proposed Amicus Brief, Attachment A.)

The Consumer Product Safety Improvement Act, (“CPSIA”), bans the manufacture, sale, distribution, and import of children’s products containing more than 0.1 percent of any of six listed phthalates beginning February 10, 2009. Public Law 110-314, 122 Stat. 3016. In a series of publicly announced interpretations of the act, the defendant Consumer Product Safety Commission, (“CPSC”), decided that the ban does not apply to any children’s product manufactured before the effective date of February 10, 2009. The CPSC’s interpretation would allow the sale of banned children’s products after the statute’s effective date despite Congress’ clear and explicit intent to protect children from the harm arising from exposure to phthalates in these products.

The plaintiffs, the Natural Resources Defense Council, Inc. and Public Citizen, Inc., have filed suit against the CPSC alleging violations of the Administrative Procedure Act, (“APA”). The Attorney General of the State of Connecticut is entrusted to represent the people of the state of Connecticut and to protect their interests in matters before the courts. The people of Connecticut have an interest in securing the full protection afforded by Congressional legislation. In particular, the children of this state have a right to expect that the CPSC will enforce legislation so as to accomplish its clear legislative intent. In this case, Connecticut’s children are interested in securing the protection afforded by Congress’ decision to prohibit the manufacture, sale, distribution or import of children’s products containing more than 0.1 percent concentration of six different phthalates that pose a significant threat to their health and safety.

Swift resolution of this case is necessary to effectuate the will of Congress and to protect the health of children in Connecticut. Accordingly, the State of Connecticut seeks the court’s permission to file an amicus curiae brief addressing the issues raised by this case.

STATE OF CONNECTICUT

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BY: /s/ _____

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CERTIFICATION

I hereby certify that on January 16, 2009, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ _____
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