

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 20-1373

LISA MILICE,
Petitioner

v.

CONSUMER PRODUCTS SAFETY COMMISSION

(CPSC-2009-0064)

Present: KRAUSE, PHIPPS, and FUENTES, Circuit Judges

ORDER

Upon consideration of the supplemental briefs submitted by the parties, the Court concludes that it lacks jurisdiction over this petition for review of a durable infant product safety standard. *See* 15 U.S.C. § 2060(g)(1)(C) (vesting exclusive jurisdiction over petitions for review of safety standards “relating to durable infant . . . products” in the Court of Appeals for the District of Columbia); *id.* § 2058(h) (providing that § 2060 applies to challenges to revised rules “in the same manner and to the same extent as such section applies to the Commission’s action in promulgating such a rule”). Because the petition could have been brought in the Court of Appeals for the District of Columbia and transfer would be in the interest of justice, and consistent with the “[e]xpedited judicial review” provided for by the statute, *id.* § 2060(g), it is hereby ordered that this petition for review be transferred to the Court of Appeals for the District of Columbia pursuant to 28 U.S.C. § 1631.¹

By the Court,

s/ Cheryl Ann Krause
Circuit Judge



A True Copy:

Patricia S. Dodsziweit

Patricia S. Dodsziweit, Clerk

Dated: February 18, 2021
JK/cc: All Counsel of Record

¹ Having concluded that we lack jurisdiction, we do not address the pending motions of the parties and amicus and will leave their resolution to our colleagues on the D.C. Circuit.

OFFICE OF THE CLERK

**PATRICIA S.
DODSZUWEIT**

CLERK



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February 18, 2021

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RE: Lisa Milice v. CPSC
Case Number: 20-1373
Agency Case Number: CPSC-2009-0064

ENTRY OF JUDGMENT

Today, **February 18, 2021** the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

s/ Patricia S. Dodszuweit

Clerk

By: James King

Case Manager

267-299-4958

cc: Commissioner