

**UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION**

**IN THE MATTER OF**

**LEACHCO, INC.**

CPSC Docket No. 22-1

HON. MICHAEL G. YOUNG  
PRESIDING OFFICER

**LEACHCO, INC.'S MOTION TO EXCLUDE THE EXPERT TESTIMONY  
PROFFERED BY THE CONSUMER PRODUCT SAFETY COMMISSION**

For the reasons set forth in the accompanying Memorandum in Support, the Court should grant Leachco's Motion and—

- I. Exclude the testimony of Dr. Mannen, Dr. Katwa, and Ms. Kish because the testimony is based on factual information that was not disclosed during fact discovery.
- II. Exclude the testimony of Dr. Katwa and Ms. Kish on Leachco's allegedly defective warnings as unhelpful and irrelevant.
- II. Exclude Dr. Mannen's proffered testimony because (A) she failed to disclose information and data underlying her report and (B) her testimony is unreliable and irrelevant.
- III. Exclude Dr. Katwa's testimony on matters outside his proffered expertise.
- IV. Exclude the attempts by Dr. Katwa and Ms. Kish to introduce fact testimony through expert reports.

Leachco reserves the right to supplement and/or renew this motion—or to address these matters in its post-hearing brief—once it has had the opportunity to cross-examine the Commission's proffered expert witnesses.

DATED: July 14, 2023.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2023, I served, by electronic mail, the foregoing upon all parties and participants of record:

<p><b>Honorable Michael G. Young</b> Federal Mine Safety and Health Review Commission Office of the Chief Administrative Law Judge 1331 Pennsylvania Ave., N.W., Suite 520N Washington, D.C. 20004-1710 myoung@fmshrc.gov cjannace@fmshrc.gov whodnett@fmshrc.gov</p>	<p><b>Mary B. Murphy</b> Director, Div. of Enforcement &amp; Litigation U.S. Consumer Product Safety Comm'n 4330 East West Highway Bethesda, MD 20814 mmurphy@cpsc.gov</p> <p><b>Robert Kaye</b> Assistant Executive Director Office of Compliance and Field Operations U.S. Consumer Product Safety Comm'n 4330 East West Highway Bethesda, MD 20814 rkaye@cpsc.gov</p>
<p><b>Alberta Mills</b> Secretary of the U.S. Consumer Product Safety Commission U.S. Consumer Product Safety Commission 4330 East West Highway Bethesda, MD 20814 amills@cpsc.gov</p>	<p><b>Leah Ippolito</b>, Supervisory Attorney <b>Brett Ruff</b>, Trial Attorney <b>Rosalee Thomas</b>, Trial Attorney <b>Caitlin O'Donnell</b>, Trial Attorney <b>Michael Rogal</b>, Trial Attorney <b>Frederick C. Millett</b>, Trial Attorney <b>Gregory M. Reyes</b>, Supervisory Attorney Complaint Counsel Office of Compliance and Field Operations U.S. Consumer Product Safety Comm'n Bethesda, MD 20814 lippolito@cpsc.gov bruff@cpsc.gov rbthomas@cpsc.gov codonnell@cpsc.gov mrogal@cpsc.gov fmillett@cpsc.gov greyes@cpsc.gov</p>

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