

[Products Liability Law Daily Wrap Up, CPSC COMPLAINTS—HOUSEHOLD PRODUCTS—CPSC action seeks to alleviate risk of injuries caused by defective residential elevators, \(Jul. 19, 2021\)](#)

Products Liability Law Daily Wrap Up

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CPSC contends that defects in residential elevators pose a significant hazard, particularly to children.

On July 7, 2021, after three separate incidents of entrapment in residential elevators that resulted in severe injury to two children and the death of a third, the U.S. Consumer Product Safety Commission (CPSC) filed an [administrative complaint](#) against thyssenkrupp Access Corp. (thyssenkrupp), a manufacturer of home elevators. The complaint alleges that various models of thyssenkrupp's residential elevators contain defects that present a substantial product hazard that has trapped children between the exterior hoistway door and the interior elevator car door or gate. CPSC asserts in a recent news release that thyssenkrupp refused to conduct a voluntary recall of the hazardous residential elevators. Thus, CPSC has urged consumers to disable or block children's access to the thyssenkrupp residential elevators to prevent a potential deadly incident. The Commission voted 3-1 to approve the complaint ([CPSC News Release](#), No. 21-161, July 7, 2021; [86 FR 36711](#), July 13, 2021).

The incidents. According to the CPSC, children can become entrapped when a residential elevator is installed with excessive space between the exterior hoistway door and the interior elevator car door or gate. Potentially, they can suffer serious injuries or death when the elevator is called to another floor. The three incidents involving thyssenkrupp residential elevators include (1) a 2-year-old child who died in 2017 after being entrapped in the hazardous space when the elevator was moving between floors; (2) in 2010, a 3-year-old child, who was entrapped in the hazardous space between the doors (the space was more than four inches), was permanently disabled; and (3) in 2019, a 4-year-old boy was hospitalized after a crush injury in which he was entrapped in the hazardous space and fell to the basement where he was pinned by the elevator.

The complaint. CPSC filed the administrative complaint against thyssenkrupp, a Missouri corporation that manufactures and distributes the elevators in question. The complaint charges that the elevators in question pose a significant hazard because they contain defects that create a substantial risk of injury to the public. As such, the complaint alleges that the residential elevators are defective for a variety of reasons, including defects in thyssenkrupp's installation materials and in the elevators' design. The models involved include Chaparral, Destiny, LEV, LEV II, LEV II Builder, Rise, Volant, Windsor, Independence, and Flexi-Lift models. The CPSC identified the following issues:

- **Elevator defects.** CPSC alleged that the elevators are defective because they contain defects in the contents, construction, finish, packaging, warnings and/or instructions in its installation materials that do not adequately prevent installation of the elevators in a manner that creates a hazardous space greater than four inches which allows some children with head breadths less than five inches to get trapped in the space. In addition, the instructions fail to contain adequate and correct instruction on how to measure the space between the hoistway door and elevator car door to avoid creating the hazardous space. The corporation also fails to provide a measurement tool and require safety features to prevent entrapment. Further, the elevators contain design defects, including allowing the elevators to move from floor to floor when a child is entrapped in the hazardous space, putting the child at risk of serious injury or death.
- **Substantial risk of injury and entrapment hazard.** The defects in the elevators create a substantial risk of injury to children entrapped in the hazardous space between the hoistway and the elevator door. Noting that children are likely to use an elevator and play in and around it, CPSC alleges that when

the elevator is not operating, children can open the unlocked hoistway door, step into the hazardous space between the hoistway door and the elevator car door, and close the hoistway door behind them. In addition, children can fit and become entrapped between the hoistway door and the elevator door when the space is greater than four inches. When the elevator is called to another floor, the hoistway door locks and traps the child, which can cause serious injury to the child.

CPSC alleges that thyssenkrupp had knowledge of the defects and the hazard when it manufactured and distributed the elevators, citing a letter and safety brochure that it allegedly received that highlights the importance of reducing the hazardous space and other information regarding the hazardous space made public by the American Society for Mechanical Engineers Residence Elevator Committee.

Relief sought. The complaint seeks an order requiring thyssenkrupp to notify the public of the defect and offer consumers a remedy that includes a free inspection. Moreover, if necessary, the complaint seeks to require thyssenkrupp to install safety devices, such as space guards, at no cost to consumers.

Numbers. According to the CPSC release, at least 16,800 residential elevators were manufactured and distributed by thyssenKrupp Access Manufacturing, LLC, thyssenkrupp Access Corp., Access Industries, Inc., or National Wheel-O-Vator Company, Inc., through 2012. The residential elevators were distributed by third-party builders, residential elevator dealers, and installers for \$15,000 to \$25,000 for a two-landing installation.

Publication. In accordance with its Rules of Practice for Adjudicative Proceeding, CPSC has published the complaint, *In the matter of Thyssenkrupp Access Corp.*, CPSC Docket No. 21-1, in the *Federal Register*.

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