

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 20, 2015

Elisabeth A. Shumaker
Clerk of Court

ZEN MAGNETS, LLC,

Petitioner,

v.

CONSUMER PRODUCT SAFETY
COMMISSION,

Respondent.

No. 14-9610
(No. CPSC 2012 0050)

ORDER DENYING STAY

Before **KELLY** and **HARTZ**, Circuit Judges.

Petitioner Zen Magnets, LLC, (Zen) has filed a petition for judicial review of the Safety Standard for Magnet Sets that was promulgated by the Consumer Product Safety Commission (CPSC). Presently before the court is Zen’s motion for a stay pending that review.


On April 1, 2015, this court temporarily stayed operation of the safety standard until the CPSC filed a response to Zen’s stay motion. CPSC has now filed a response. We proceed to resolve the stay motion.

Four factors govern our consideration of a motion for a stay: “(1) whether the stay applicant has made a strong showing that [it] is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether the issuance of the stay will substantially injure the other parties interested in the

proceeding; and (4) where the public interest lies.” *Nken v. Holder*, 556 U.S. 418, 434 (2009) (internal quotation marks omitted). “A stay is not a matter of right, even if irreparable injury might otherwise result.” *Id.* at 433 (internal quotation marks omitted).

We conclude that Zen has not satisfied these factors. Accordingly, we deny the motion for a stay and we lift the temporary stay that was previously entered.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker". The signature is written in black ink on a white background.

ELISABETH A. SHUMAKER, Clerk