

SHAPIRO APPLETON & DUFFAN P.C.

All We Do Is Injury Lawsm

Richard N. Shapiro (VA, WV, DC, NC)
Randall E. Appleton (VA, WV, NC, KY, SC)
Kevin M. Duffan (VA, NC)
Patrick J. Austin (VA, NC)

1294 DIAMOND SPRINGS ROAD
VIRGINIA BEACH, VA 23455
757.460.7776 - Telephone
757.460.3428 - Facsimile

Satellite Offices

Elizabeth City, NC
Norfolk, VA
Hampton, VA
Portsmouth, VA
Suffolk, VA

E-Mail: paustin@hsinjurylaw.com



Firm Web Sites:
hsinjurylaw.com
carolina.hsinjurylaw.com

January 28, 2015

Commissioner Elliot F. Kaye
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Attention: Jana Fong-Swamidoss (Chief Counsel to the Chairman)

**Re: Potential Violations of CPSA of 2008, Husqvarna and Ryobi Technologies, Inc.
(Outdoor Power Equipment, Ryobi Ride-on Lawn Tractors, Model HDK19H42,
Sold in Home Depot stores 2005-2007)**

Dear Ms. Fong-Swamidoss,

The law firm of Shapiro, Appleton & Duffan P.C., in conjunction with Sullivan Law L.L.C., respectfully request that the Consumer Product Safety Commission initiate an investigation, and potentially require a recall, of a Ryobi Technologies, Inc. ride-on lawn mower manufactured by Husqvarna, Inc. with model number HDK19H42.

Our firms recently litigated a wrongful death case in the Eastern District of Virginia against Ryobi Technologies, Inc. and a myriad of disturbing facts were brought to light. We discovered that Ryobi Technologies, Inc. determined there were problems with the fuel tank and fuel line connection on the ride-on mowers with model number HDK19H42 and in the same model family by 2006. The safety risk was a gasoline fed sudden fire, injury or severe burn death. See Ex. 1 [2006 Recall Issued by Husqvarna on their branded lawn tractor of the same fuel tank as was supplied on the Ryobi mower]. Yet, no issue, warning, or notice was supplied to consumers who purchased this model lawn tractor as the Ryobi was sold in 2005. In other words, Husqvarna recalled the fuel tank and supplied a replacement on their branded tractor, but no recall was issued on the same fuel tank sold as part of the Ryobi mowers manufactured by Husqvarna.

Our client, Frank S. Wright, was one of these Ryobi consumers and he died when his Ryobi mower suddenly exploded when gas ignited, and the resulting intense fire burned him to death within minutes while he was using this mower on December 23, 2010 in Chesapeake, Virginia.

Even more troubling is the fact that we discovered that Ryobi Technologies, Inc. was made aware of a lawn mower fire within the same model family in July 2010. See Ex. 2 [Judicial Admission Read to Jury in *Bilenky v. Ryobi, et. al.*, 2:13-cv-00345]; see also Ex. 3 [Letter to Ryobi from an attorney, about the July 2010 Indiana Fire, that burned the entire residence to the ground]. Despite learning of this serious fire hazard by August 2010, no warning, notice or alert was issued by Ryobi Technologies, Inc., nor its contract-manufacturer, Husqvarna. See Ex. 4 [Hearing Transcript of Ryobi Fire Investigator Dan Nielsen's Testimony Regarding His Knowledge of the July 2010 Fire; Jan. 13, 2015]. Husqvarna retained Dan Nielsen to travel to Indiana and investigate the fire that burned the involved house down. Still, no report was filed by Husqvarna or Ryobi with the CPSC in 2010, despite the known safety hazard.

The Consumer Product Safety Improvement Act (CPSIA) was passed in 2008 and was in effect when Ryobi Technologies, Inc. was made aware of a lawn mower fire that occurred in Indiana in July 2010. The evidence shows that Husqvarna, Inc. directed their retained investigator to not send any materials to Husqvarna. The testimony of Dan Nielsen suggests that this was knowingly and intentionally done to avoid reporting the incident to the CPSC, and to assure that Husqvarna could deny awareness of any safety risk or fire on the Ryobi product.

In the interest of public safety, and the safety of purchasers of this Ryobi model mower, we request that the CPSC formally investigate the troubling circumstances surrounding both 2010 fires (the Indiana fire, and the Chesapeake, VA fire involved in our case).

Additionally, we ask the CPSC to investigate whether any fines are warranted as to Husqvarna and Ryobi Technologies, Inc. for avoiding federal law responsibilities under the CPSC Act and that the CPSC formally investigate whether a recall (as to the original fuel tank design) of the more-than 18,000 Ryobi mowers sold between 2005 and 2006 with model number HDK19H42 is necessary, including warnings in Home Depot stores, the only original retail outlets for the Ryobi mowers. We specifically request that Husqvarna, Inc. include as part of the recall notice that there is a risk of fire, injury and potential death associated with fuel line separation from the fuel tank outlet, as well as the earlier warning that the metal spring clamp rubbed or abraded the original plastic fuel tank. These are all serious safety hazards that the general public must be made aware of.

Sincerely,



Richard N. Shapiro, Esq.
Patrick J. Austin, Esq.
Shapiro, Appleton & Duffan
1294 Diamond Springs Road
(757) 460-7776 (telephone)
rshapiro@hsinjurylaw.com



Rob Sullivan, Esq.
1600 Baltimore, Suite 200
Kansas City MO 64108
(816) 221-9922 (telephone)
(816) 817-1962 (facsimile)
rsullivan@sullivantrial.com