

## Whirlpool Fined \$11.5M for Failing to Notify of Faulty Cooktops

In a unanimous vote, the U.S. Consumer Product Safety Commission (CPSC) approved a settlement with Whirlpool Corp., which requires Whirlpool to pay \$11.5 million in civil penalties for allegedly ignoring reports from consumers that Whirlpool's cooktops could come on by themselves and cause fires.

At issue were complaints filed by consumers relating to Whirlpool, KitchenAid, and JennAir brand electric cooktops. It was alleged the cooktops contain a defect allowing the cooktops to be activated without the intent of the consumer.

According to the CPSC, Whirlpool received over 150 complaints between 2017 and 2019 about cooktops turning on by themselves, including reports of property damage and personal injuries. Despite these complaints, Whirlpool delayed notifying the CPSC.

In August 2019, the CPSC and Whirlpool jointly recalled more than 20,000 cooktops manufactured between 2016 and July 2019. ([Read more.](#))

The settlement between Whirlpool and the CPSC is solely related to Whirlpool's alleged failure to timely report the issue, and there is no admission by Whirlpool that its cooktops are defective.

### Subrogation Potential

Although the CPSC agreement only relates to Whirlpool and a different potential defect, electric and gas stoves from major manufacturers can be inadvertently activated. Recently, class action lawsuits have been filed against Samsung and LG for certain cooktop models prone to unintended activation. It should be noted these class action lawsuits focus on warranty and personal injury remedies and do not include property damage claims.

For several years, Cozen O'Connor has been investigating and pursuing subrogation claims against the manufacturers of cooktops that can be inadvertently activated. Most insurers are aware that unattended cooking fires are common occurrences. From a subrogation perspective, the insured is not always at fault for a fire originating from an operating cooktop. When there is an "unintended or inadvertent activation," subrogation potential may exist. From a design perspective, cooktop controls should not be easily turned on, and certain manufacturing standards require two distinct actions to turn on the cooktop. Although manufacturers endeavor to design control knobs in a manner that requires a certain level of depression before the knob can be rotated, many are capable of being turned with just one. Manufacturers are also failing to guard against inadvertent activation as required by the standards.

### Post-Fire Investigation & Preserving Subrogation

Obtaining and preserving evidence of the fire's origin and cause, along with the damage from the event, is a key part of the claim-handling process, especially when subrogation issues are under investigation. When fires originate in a kitchen, efforts must be taken to identify, collect, and preserve all competent sources of ignition. Care should be taken to identify and invite any potentially responsible party to the scene examination and any subsequent laboratory examination of the preserved artifacts.

Cozen O'Connor has been investigating and prosecuting fires specifically occurring due to the inadvertent activation of the cooktop, whether by the insured, their children or pets, or by third parties for many years. We have retained, on behalf of our clients, engineers and consultants, to investigate the circumstances of these losses, document the fire scene and origin area, evaluate



Cheri L. MacArthur

**Chair,  
Subrogation &  
Recovery,  
Rocky Mountain  
Region**

cmacarthu@cozen.com  
Phone: (720) 479-3939  
Fax: (720) 459-6131

#### Related Practice Areas

- Subrogation & Recovery

#### Industry Sectors

- Insurance

the artifacts, and develop products liability claims against various manufacturers.

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**If you are handling any cooktop fires that require investigation and analysis, please do not hesitate to contact Cozen O'Connor to assist in protecting your subrogated interest.**