

Foam attic law suite

Mike,

I came across this article- may be something to keep on your radar, but I'm not convinced that these cases will gain traction, and it's very unlikely that they are the "new Chinese drywall," but it's interesting nonetheless.

Lawsuits amass over spray foam insulation

Plaintiff attorneys for homeowners say spray foam insulation lawsuits will eclipse Chinese drywall litigation as health concerns about the product rise.

John Pacenti

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Miami attorney Jeremy Alters said he is going to do to spray polyurethane foam insulation what plaintiffs lawyers did to Chinese drywall — make the manufacturers and installers pay for the homes and lives they ruined.

The Alters Law Firm filed five federal lawsuits in recent months over the summer against manufacturers and installers, starting with a complaint filed in Miami against Demilec USA LLC and Masco Services Group Corp. in May. Others are about to be filed across the nation in the next few weeks.

The lawsuits claim the insulation foam contains carcinogens, such as formaldehyde and isopropylene, that can cause respiratory illness and distress.

Alters said he expects the lawsuits, like with the numerous Chinese drywall cases, eventually will be consolidated for pretrial issues either in a multidistrict litigation action or mass tort action in front of one federal judge.

Tainted Chinese drywall led to homes stinking of sulphur and the corrosion of metal in air conditioners, appliances and other household items. Homes built during the housing boom had to be gutted to the studs. Knauf Plasterboard Tianjin, the top supplier of the drywall, has settled numerous lawsuits around the country for at least \$800 million.

"It is very unfortunate what has happened to many homeowners with the installation of defective Chinese drywall, and we believe that the installation of this specific spray foam insulation can even be as widespread, or even more widespread, than Chinese drywall," Alters said.

Spray polyurethane foam insulation — known in the construction industry as SPF — came into vogue in the last decade, also during the housing boom. The insulation is a semi-rigid substance

created by the chemical reaction of two sets of compounds combined at the worksite. It is sprayed into walls and attics by an installer wearing a breathing apparatus.

When applied, the foam is supposed to become inert and nontoxic, but the Miami lawsuit claimed that doesn't occur "given the exacting set of installation requirements and inadequate training and installer certification methods."

Installers mix the compound at construction sites.

"It's supposed to be mixed at a temperature of 212 degrees Fahrenheit in a sterile clean environment," Alters said. "It doesn't work. It becomes toxic."

Green product

The Lydecker Diaz firm in Miami is representing Demilec. Attorneys at the firm had no comment or did not respond to emails on the pending lawsuits.

A call for comment to the Arlington, Texas-based company was not returned by deadline.

The other manufacturer named in the litigation is Houston-based Lapolla Industries Inc., which has not answered the Sept. 14 complaint filed by Alters.

He said his firm is handling 50 cases with active lawsuits in Connecticut, Wisconsin, Arkansas, New York and New Jersey. Cases are about to be filed in Michigan and Ohio, he said.

Alters partner David Rash, who is riding herd on the litigation, said the spray foam insulation was marketed as safer for the environment and worth the extra cost over traditional fiberglass insulation.

"The manufacturers market SPF as a green product they claim is safer for the environment despite knowing it is not," Rash said.

He claimed many of the allegedly dangerous chemicals in the insulation are hidden by manufacturers and were not listed on the material safety data sheets on the products, asserting they are "proprietary" and "trade secret."

"The consumer-homeowners and families are duped into buying a product the manufacturers know is dangerous to their health and can completely damage the home," Rash said.

Robert and Kathy Lynn Devereaux of rural Pembroke, Virginia, spent \$9,000 to install spray polyurethane foam in their home. Immediately, the residence became unlivable due to the stench and health problems, such as headaches and breathing difficulties, he told the Daily Business Review.

Dr. Robert Devereaux, a family practitioner, said after moving out and getting unsatisfactory responses from the manufacturer and installer, who has since gone out of business, he decided to have the foam removed. He received estimates of \$20,000 to \$80,000 but now feels it may be too late. Inspections have shown high levels of formaldehyde in the home, he said.

Case Study

"The disturbing part about it is that nobody knows really what goes wrong when this stuff goes wrong," he said. "Nobody has given me any answers what is wrong with my house."

Devereaux hired Fort Lauderdale attorney Vince Pravato of Wolf & Pravato. The firm is working with Alters to bring Devereaux's suit in the next month, the doctor said. New York attorney Benedict P. Morelli of Morelli Ratner also is working with the plaintiffs.

Alters expects numerous lawsuits to be filed in the next few months. His firm has clients in Orlando and Delray Beach.

"Ultimately, we are going to uncover huge problems nationwide," he said. "This will be bigger than Chinese drywall."

Alters said there are some similarities between Chinese drywall and the spray foam insulation: They both emit a rotten egg smell and to resolve the problem, homes have to be gutted, forcing the relocation of residents. Lawsuits over the two products differ, though, in that claims against Chinese drywall focused on structural and content damage while the spray foam litigation is based on health claims.

"The people we are representing are having serious respiratory illness problems, including asthma," he said. "We have children diagnosed with asthma who did not have it before. It's not like they had it and it got worse. They just got it out of the blue after moving into the home."

He said there is a now wait-and-see approach to monitoring children to see if their symptoms improve outside of their foam-insulated homes.

Drs. Wayne Tsuang and Yuh-Chin T. Huang of the Department of Medicine at Duke University Medical Center in Durham, North Carolina, reported on foam insulation and asthma in the March issue of the Journal of Occupational and Environmental Medicine.

Their case study concluded asthma was induced by spray foam polyurethane insulation.

The doctors said it appears the "curing rate" for the product during installation may be a determining factor for health effects. They advised fellow physicians to be on the lookout for respiratory distress caused by the insulation.

"The home occupants may unknowingly be exposed to isocyanate and be at increased risk for adverse health effects," Tsuang and Huang wrote.

On Thu, Oct 4, 2012 at 2:43 PM, Jeffrey Robin <floridalegal@gmail.com> wrote:

Ross, see the below article. Defective spray foam may be the next big products liability litigation practice area.

Jeff

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John Pacenti

October 04, 2012

Plaintiff attorneys for homeowners say spray foam insulation lawsuits will eclipse Chinese drywall litigation as health concerns about the product rise.

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