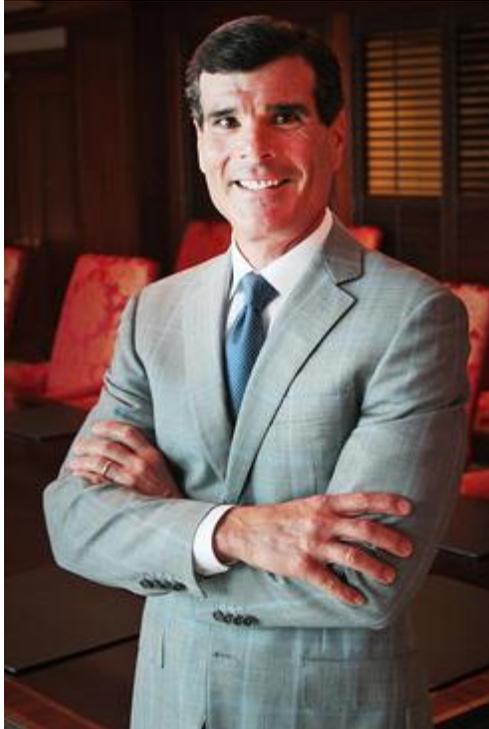


Condos Claim Faulty Sprinkler Pipes Need to Be Replaced for Millions

Monika Gonzalez Mesa, Daily Business Review

December 4, 2015



Ervin A. Gonzalez, with Colson Hicks Eidson

Attorneys for two Miami condominium associations filed a class action suit they expect will lead to damages exceeding \$1 billion against the makers and distributors of an allegedly defective fire sprinkler system pipe.

"This is probably one of the biggest construction defect cases in history. It will be larger than the Chinese drywall problem," said plaintiffs attorney Ervin A. Gonzalez, a partner at Colson Hicks Eidson, who also worked on the Chinese drywall case.

The lawsuit filed Nov. 16 and assigned to U.S. District Judge Jose E. Martinez in Miami on behalf of the Wind and Latitude on the River associations alleges a "national cover-up over a significant life safety issue" in multi-unit buildings across the country with CPVC pipes sold for use in hybrid fire sprinkler systems.

Gonzalez estimates a least 10,000 buildings nationwide used the pipes, and repairs could cost \$50 million to \$100 million per building.

The lawsuit filed against a dozen manufacturers, suppliers and distributors argues chemicals commonly used in construction and in metal pipes react over time with resins in the CPVC pipe, causing them to leak and blow out. The leaks damage drywall and lead to mold growth but also can cause the sprinkler systems to fail in an emergency due to lack of pressure.

"The question is not whether the CPVC pipe used in combination with the metal pipes will fail; the question is when it will fail," said Gonzalez, who tried the first Chinese drywall case and is on the national drywall plaintiffs steering committee. "This can happen at the very worst time — during a fire when the sprinkler system must operate."

Buildings constructed from 2004 to 2009 are most at risk, particularly if they used a hybrid system of CPVC and metal pipes containing antimicrobial and anticorrosion chemicals, the plaintiffs said. Building codes require the CPVC pipe to be used only horizontally because it is less durable.

"You can't use only CPVC," Gonzalez said. "None of the codes in the nation will allow it. You have to use metal ones on the side walls."

Gonzalez said the plaintiffs learned through discovery in a related state case that the chief chemist at Lubrizol determined in 2007 that the CPVC resin would fail when exposed to common chemicals used in construction, but others at the company balked at disclosure.

"They knew they would fail, and they kept selling them," Gonzalez said. "It's a classic case of sales over safety and putting profits over people. And frankly it's just wrong."

Repairs to the two Miami buildings are expected to cost \$50 million to \$70 million each, he said. The 41-story, 489-unit Wind at 350 S. Miami Ave. was constructed in 2008, and the 44-story, 454-unit Latitude on the River at 185 SW Seventh St. was completed in 2011.

"You have to tear out the side walls and ceiling from every unit. A lot of these are high-end units," Gonzalez said. "You have to restore the building. You have to move residents out. For fire safety reasons you have to move the people out or have a fire safety person on each floor."

The named defendants are Allied Tube & Conduit Corp., Tyco International PLC, Tyco Fire Products LP, all of Delaware; Lubrizol Advanced Materials of Ohio; Viking Corp. of Michigan; Victaulic Co. of New Jersey; Georg Fischel Harvel of Pennsylvania; Nibco Inc. of Indiana; Spears Manufacturing Co. of California; Atkore International Inc. of Delaware; HD Supply Watermarks Group of Delaware and HD Supply Watermarks Ltd. of Florida.

Other attorneys for the plaintiff are Patrick Montoya of Colson Hicks and Stuart Sobel, a partner at Siegfried, Rivera, Hyman, Lerner, De la Torre, Mars & Sobel, along with of counsel Alton C. Hale Jr.

No defense attorneys are listed in court records. A spokeswoman for Lubrizol would not comment on ongoing litigation. Representatives from Allied and Tyco did not return calls by deadline.

Read more: <http://www.dailybusinessreview.com/id=1202744037260/Condos-Claim-Faulty-Sprinkler-Pipes-Need-to-Be-Replaced-for-Millions#ixzz3tOr6ax9V>