

18SL-CC03932

Electronically Filed - St Louis County - October 17, 2018 - 01:57 PM

IN THE CIRCUIT COURT OF SAINT LOUIS COUNTY  
STATE OF MISSOURI

CHAPEL RIDGE	)
CONDOMINIUM ASSOCIATION	)
	)
Plaintiff,	)
	)
VS.	)
	)
TITIFLEX CORPORATION	)
	)
Serve:	)
	)
Titeflex Corporation	)
603 Hendee Street	)
Springfield, MA 01104	)
	)
Defendant.	)

Cause No.:

**JURY TRIAL DEMANDED**

PETITION

COMES NOW Plaintiff, Chapel Ridge Condominium Association, by and through their attorneys, Evans & Dixon, LLC and for their Petition against Defendant, Titeflex Corporation, state the following:

1. Plaintiff Chapel Ridge Condominium Association ("Plaintiff") is a condominium Association organized under the laws of Missouri and at all times relevant hereto was the owner of the common areas at the real property located at 480 Chapel Ridge Drive, Hazelwood, Missouri ("Subject Property").
2. Defendant Titeflex Corporation, ("Titeflex"), is a Massachusetts corporation with its principal place of business located at 603 Hendee Street, Springfield, MA.
3. Defendant Titeflex is in the business of designing, manufacturing, assembling, selling and otherwise distributing corrugated stainless steel tubing ("CSST") manufactured under

the trade name of Gastite. Defendant Titeflex regularly conducts business in the State of Missouri and sells and markets its CSST product in the State of Missouri.

4. Defendant Titeflex was, at all times relevant hereto, in the business of manufacturing non-conductive (yellow jacketed) CSST ("YCSST").

5. In a recent affidavit, the CSST industry has sworn, under oath, that during a lightening event electrical energy will arc to the YCSST which results in holes in the YCSST that releases gas and fuels a fire.

6. The CSST industry has sworn, under oath, that YCSST poses a risk to homeowners and building owners alike.

7. The CSST industry has acknowledged that YCSST fails to disperse the electrical energy caused by lightning.

8. The CSST industry has acknowledged that the YCSST focuses electrical energy caused by lightning on a singular location causing arcing and holes in the thin tubing of the YCSST.

9. According to recently published testing of YCSST, it has been proven that YCSST can fail at 0.1 coulombs.

10. The CSST industry, including Defendant Titeflex, recognized the danger of YCSST and no longer sell or market YCSST.

11. The CSST industry, including Defendant Titeflex, now manufacture and market black jacketed and conductive CSST ("BCSST") which can allegedly withstand at least electrical currents of 6 coulombs before failure according to the BCSST manufacturers.

12. The CSST industry, under oath, states that the BCSST "has been shown to be 400 times more resistant to the damaging effects of electrical lightning energy than YCSST."

13. Defendant Titeflex designs and manufactures its BCSST under the tradename "Flashield®."

14. Nevertheless, neither the CSST industry nor Defendant Titeflex has recalled the YCSST nor warned the millions of property owners of the known dangers and design flaws in the product.

15. YCSST has been banned for use in the City of Lubbock, Texas because of its design flaws and inherent dangers.

16. At all times relevant hereto, a Gastite branded YCSST gas line was installed to the furnace of Unit H at Chapel Ridge. The YCSST was designed, marketed, manufactured, assembled, sold and otherwise distributed by Defendant Titeflex (hereinafter "Subject YCSST").

17. On or about April 29, 2017, the Subject YCSST caused a fire during a lightning storm at the Subject Property when it failed and resulted in substantial damage to the Subject Property and the contents therein.

18. Venue is proper in this Court as the incident which is the subject of this suit occurred at the Subject Property in Saint Louis County, Missouri.

19. Plaintiff sustained significant damage to the Subject Property as a result of the fire, in excess of \$25,000, as a direct and proximate result of the defective and unreasonably dangerous Subject YCSST.

**COUNT I - STRICT LIABILITY VS. DEFENDANT TITEFLEX**

20. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 19 as if fully set forth herein.

21. The Subject YCSST was designed, manufactured, assembled, sold and otherwise distributed by Defendant Titeflex in the regular course of Defendant Titeflex's business and was

expected to and did reach the Plaintiff without substantial change in the condition in which it was designed, manufactured, assembled, sold and otherwise distributed to the Plaintiff.

22. The Subject YCSST was then in a defective condition and susceptible to fire, as described above, which rendered it unreasonably dangerous when put to a reasonably anticipated use, in that the Subject YCSST was designed, manufactured, assembled, sold and otherwise distributed by Defendant Titeflex in a defective condition.

23. The Subject YCSST was used in a manner reasonably anticipated as gas piping.

24. Plaintiff sustained damages, as a direct and proximate result of such defective and unreasonably dangerous condition of the Subject YCSST as it existed when it was designed, manufactured, assembled, sold, distributed, and left Defendant Titeflex's control, causing damages to the Subject property in excess of \$25,000.

WHEREFORE, Plaintiff prays for damages against Defendant Titeflex in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) together with costs, interest, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

**COUNT II - STRICT LIABILITY-FAILURE TO WARN**  
**VS. DEFENDANT TITEFLEX**

25. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 24 as if fully set forth herein.

26. The Subject YCSST was expected to and did reach the Plaintiff without substantial change in the condition in which it was manufactured, designed, assembled, distributed and sold by Defendant Titeflex to Plaintiff in the regular course of Defendant Titeflex's business.

27. The Subject YCSST was then in a defective condition and susceptible to fire, as described above, which rendered it unreasonably dangerous when put to a reasonably anticipated use, in that the Subject YCSST was designed, manufactured, assembled, sold and otherwise distributed by Defendant Titeflex in a defective condition.

28. Defendant Titeflex did not give an adequate warning of these dangers and defective conditions and refused to warn or recall the YCSST despite designing a new product with the sole purpose of dissipating the electrical energy caused by lightning.

29. The Subject YCSST was used in a manner reasonably anticipated as gas distribution piping.

30. Plaintiff sustained damages, as a direct and proximate result of the failure to warn of the defective and unreasonably dangerous condition as existed when the Subject YCSST was manufactured.

WHEREFORE, Plaintiff prays for damages against Defendant Titeflex in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) together with costs, interest, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

**COUNT III - NEGLIGENCE VS. DEFENDANT TITEFLEX**

31. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 30 as if fully set forth herein.

32. The Subject YCSST was manufactured, assembled, designed, sold, and otherwise distributed by Defendant Titeflex in the regular course of Defendant Titeflex's business.

33. Defendant Titeflex owed Plaintiff a duty to use ordinary care in the manufacturing, assembly, design, sale and distribution of the Subject YCSST.

34. Defendant Titeflex was negligent and failed to use ordinary care in the manufacture, assembly, design, sale and distribution of the Subject YCSST and by negligently failing to warn Plaintiffs of said defective condition and design.

35. As a direct and proximate result of the above-mentioned negligence, Plaintiff was damaged.

WHEREFORE, Plaintiff prays for damages against Defendant Titeflex in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) together with costs, interest, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

**COUNT IV - BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**  
**VS. DEFENDANT TITEFLEX**

36. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 35 as if fully set forth herein.

37. Defendant Titeflex designed, manufactured, assembled, sold, distributed and introduced the Subject YCSST into the stream of commerce in the process of its usual and customary business.

38. When Defendant Titeflex designed, manufactured, assembled, sold, distributed, and introduced the Subject YCSST into the stream of commerce, it was not fit for its ordinary purpose because it was designed, manufactured, assembled, sold, distributed and introduced into the stream of commerce by Defendant Titeflex as defective and unreasonably dangerous and susceptible to causing fires and Plaintiff used the Subject YCSST for its ordinary purpose as gas distribution piping and gave Defendant notice that it was not fit for its ordinary purpose upon the subject fire.

39. As a result of the Subject YCSST not being fit for its ordinary purpose, Plaintiff was damaged and Defendant breached its implied warranty of merchantability.

WHEREFORE, Plaintiff prays for damages against Defendant Titeflex in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) together with costs, interest, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

**COUNT V – BREACH OF EXPRESS WARRANTY**  
**VS. DEFENDANT TITEFLEX**

40. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 39 as if fully set forth herein.

41. Defendant Titeflex is the warrantor of the Subject YCSST.

42. Defendant Titeflex did not meet the conditions of the expressed warranty in that the Subject YCSST did not conform to the representations by Defendant Titeflex that it was fit for use as gas distribution piping because the Subject YCSST was designed, manufactured, sold, distributed and introduced into the stream of commerce by Defendant Titeflex as defective and was susceptible to causing fire.

43. Plaintiff notified Defendant Titeflex of the defective condition of the Subject YCSST. Because of Defendant Titeflex's breach of the expressed warranties, Plaintiff was damaged.

WHEREFORE, Plaintiff prays for damages against Defendant Titeflex in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) together with costs, interest, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

Respectfully submitted,



Richard D. Gerber #34384  
Matthew R. Leffler #62110  
EVANS & DIXON, L.L.C.  
211 N. Broadway, Suite 2500  
St. Louis, Missouri 63102  
(314) 621-7755  
(314) 884-4501 (fax)  
ATTORNEYS FOR PLAINTIFFS  
[rgerber@evans-dixon.com](mailto:rgerber@evans-dixon.com)  
[mleffler@evans-dixon.com](mailto:mleffler@evans-dixon.com)

3946696