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Weil Snuffs Product Liability Class for HVAC Giant

By Jenna Greene

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A team of Weil, Gotshal & Manges litigators rebuffed a bid for class certification in a product liability suit, handing client Nortek Global HVAC a win on Thursday in Miami federal court.

Nortek was sued by consumers in Florida who purchased the company's heating and air conditioning systems, alleging that they contained defective copper evaporator coils. They sought both monetary and equitable relief.

Nortek's HVAC units are distributed and sold under 13 different brand names, including Frigidaire and Westinghouse. According to the plaintiffs, the copper coils were susceptible to corrosion resulting in premature failure, and Nortek knew it.

The purported class included everyone who bought the systems, even people who hadn't had any problems. The plaintiffs' theory was that the use of copper increased the propensity to fail, thus the loss occurred as soon as the class member bought the defective unit. They also proposed a subclass of everyone who actually experienced HVAC failure.

That didn't go over well with U.S. District Judge Beth Bloom, who wrote that it "potentially overcompensates class members."

Identifying class members wasn't so simple either. The proposed class excluded people who bought a warranty that covered labor and refrigerant. "Plaintiffs have failed to identify a feasible manner in which to identify these consumers, as labor and refrigerant warranty plans often come from varying sources, including contractors and 'whole' homeowner insurance policies," Bloom wrote.



Arvin Maskin



Edward Soto

She also found "material differences" in the potential for corrosion among the coils used in the units. "Thus, the court is hesitant to determine that defendant has acted in a manner generally applicable or consistent toward all members of the class," Bloom wrote in refusing to certify the class. "Plaintiffs cannot demonstrate a design common to the proposed class."

The Weil team was led by products liability chair Arvin Maskin and complex commercial litigation co-chair Edward Soto. Associates Erica Rutner, Pravin Patel, Brian Liegel, Alexis Kellert and Emily Pincow assisted.

The plaintiffs were represented by Greg Coleman La; Seeger Weiss; Berger & Montague; and Morgan & Morgan.

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