



Hurricane Protection Straps Suit Blown Out Of Court

By **McCord Pagan**

Law360 (May 18, 2020, 9:19 PM EDT) -- A California magistrate court dismissed a lawsuit against a company accused of not adequately telling consumers that its structural support straps designed to fortify homes against natural disasters such as hurricanes allegedly rust and corrode too quickly.

U.S. Magistrate Judge Thomas S. Hixson on Friday dismissed the amended complaint against Simpson Strong-Tie Co. Inc. and Simpson Manufacturing Co. Inc. brought by a putative class of homeowners accusing the company of making and selling steel straps advertised to help buildings withstand hurricane-force winds but allegedly fail too soon.

Among other things, Judge Hixson said Florida homeowners Cary and Terri Cooper, Fernandina Beach LLC and California homeowners Simon Nguyen and Thoai Doan failed to specify certain aspects of their claims against Simpson, allowing them to amend five of their nine claims but dismissing the others with prejudice.

"Without alleging which models were installed on plaintiffs' homes, where on the structures the product was installed, if it was installed in accordance with Simpson's recommendations, or when it was installed, the [first amended complaint] doesn't allege facts plausibly suggesting that the product was defective," Judge Hixson wrote.

The suit was **filed** in December and amended in late February. It alleges Pleasanton, California-based Simpson of selling fasteners despite knowing they allegedly corrode and fail and not warning consumers. The homeowners asked for a certified nationwide class action, as well as state classes for Florida and California.

In a statement emailed to Law360, Erick C. Howard of Shartsis Friese LLP and counsel for Simpson Strong-Tie said the company is pleased with the order tossing the lawsuit and that both complaints contradicted the business's statements about its products.

"This decision recognizes that Simpson provides extensive corrosion warnings that effectively advise consumers regarding its products' proper use as well as their limitations," according to the statement.

"Simpson has long been the industry leader in providing corrosion-related information," it said.

On May 1, counsel for Simpson Strong-Tie asked for sanctions against the attorneys for the homeowners in the case, calling their actions "particularly egregious" for bringing a lawsuit without factual or legal basis.

The lawyers for the structural steel products manufacturer accused their opposing counsel of bringing an amended complaint that among other things falsely accuses Simpson of saying their products will last the life of the home.

"All of the above-referenced allegations appear to be solely in service of harassing defendants, deceiving the court, and surviving a motion to dismiss, in spite of the fact they are all

demonstrably unsupportable," according to court documents.

"Plaintiffs' counsels' insistence on asserting demonstrably false factual allegations and pursuing unsupportable and unwarranted legal claims mandates issuance of sanctions pursuant to Rule 11," they said. Counsel for Simpson Strong-Tie attempted to resolve the issue informally before bringing a motion, they said.

In response, the attorneys for the homeowners said on Friday, before Judge Hixson's order, that Simpson Strong-Tie did not adequately warn homeowners of the specific risks of corrosion for certain products, and even mentioned the possibility of filing a sanctions bid themselves.

"Simpson's contention that its defense is so airtight that the court should issue Rule 11 sanctions against plaintiffs for even filing this case is not only without merit, but it ironically warrants imposing Rule 11 sanctions against Simpson for filing a frivolous Rule 11 motion," according to the filing.

Simpson has been making the fasteners, which can be anchored into the foundation, framing and doors of homes and that are supposed to help the structures survive natural disasters, since 1983, the suit said.

After Hurricane Michael made landfall in the Florida Panhandle in 2018, photos of a newly finished home in the town of Mexico Beach went viral for being one of the few structures left standing in the area. The home was built using Simpson products, and the company later used the opportunity to tout its construction credentials.

Counsel for the homeowners did not immediately respond to a request for comment.

The plaintiff attorneys include Marie Appel, Michael Ram and Juvian Hernandez of Robins Kaplan LLP, Adam Hoipkemier and Kevin E. Epps of Epps Holloway DeLoach and Hoipkemier LLC, Graham LippSmith and Celene Chan Andrews of Kasdan LippSmith Weber Turner LLP and Jeffrey B. Cereghino of Cereghino Law Group.

Counsel for Simpson Strong-Tie includes Joseph V. Mauch, Erick C. Howard and Felicia A. Draper of Shartsis Friese LLP.

The case is Cooper et al. v. Simpson Strong-Tie Company Inc. et al., case number 3:19-cv-07901, in the U.S. District Court for the Northern District of California.

--Editing by Michael Watanabe.