

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

NATIONWIDE MUTUAL FIRE
INSURANCE COMPANY as subrogee of
SCOTT and MARY BETH THORNTON,
Plaintiff,

No. 3:10cv1596 (SRU)

v.

OMEGA FLEX, INC.,
Defendant.

VERDICT FORM

We, the jury, unanimously find as follows:

Question 1: Has Nationwide proven by a preponderance of the evidence each of the elements of its strict liability defective product claim?

Yes _____ No X

Proceed to Question 2.

Question 2: Has Nationwide proven by a preponderance of the evidence each of the elements of its inadequate warnings or instructions claim?

Yes _____ No X

If you answered "YES" to Question 1 or 2, proceed to Question 3. If you answered "NO" to both Question 1 and 2, then the jury foreperson should sign and date this form.

Question 3: Has Omega Flex proven by a preponderance of the evidence each of the elements of its misuse defense?

Yes _____ No _____

If you answer "YES" Question 3, then the jury foreperson should sign and date this form. If you answer "NO," proceed to Question 4.

Question 4: What amount of compensatory damages do you find that Nationwide has proven by a preponderance of the evidence?

\$ _____

Proceed to Question 5.

Question 5: Do you find that Omega Flex has proven by a preponderance of the evidence that Nationwide, as subrogee of Scott and Mary Beth Thornton, was negligent in a manner that partially caused the damages you found in Question 4? If "YES," enter the parties' respective percentages of fault. If "NO," leave the percentages of fault spaces blank.


Yes _____ No _____

Percentage of Nationwide's fault _____

Percentage of Omega Flex's fault _____

(The foreperson should sign and date this verdict form in the space provided below.)

For the jury,



Signature of Foreperson



Date

Witness List

AO 187 (Rev. 7/87) Exhibit and Witness List

UNITED STATES DISTRICT COURT

DISTRICT OF

Connecticut

Nationwide

EXHIBIT AND WITNESS LIST

V.

Omega Flex

Case Number: 3:10CV1596 (SRU)

PRESIDING JUDGE					PLAINTIFF'S ATTORNEY	DEFENDANT'S ATTORNEY
<u>JR. Underhill</u>					<u>S. Blackburn</u>	<u>D. Doherty</u>
TRIAL DATE(S)					COURT REPORTER	COURTROOM DEPUTY
<u>8/23/13</u>					<u>S. Catucci</u>	<u>B. Shalbi / M. Martin</u>
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
✓		<u>8/23</u>			<u>Vincent Calenda, CFI</u>	
✓					<u>THOMAS W. EAGAR, Sc.D., PE</u>	
✓					<u>KENNETH R. McLAUGHLAN, PE</u>	
✓		<u>4/26</u>			<u>ALEXANDER RAUSO, JR.</u>	
✓					<u>MELAN MURPHY</u>	
✓					<u>ROBERT N. TORRIN, P.E.</u>	
✓					<u>SCOTT THORNTON, M.D.</u>	
✓					<u>ROBERT CRAWFORD</u>	
✓		<u>8/22</u>			<u>MARK GOODSON</u>	
	✓				<u>DAVID SMITH</u>	
	✓				<u>MICHAEL F. STRINGFELLOW, Ph.D.</u>	
	✓	<u>8/28</u>			<u>STEVEN TREICHEL</u>	
	✓	<u>8/28</u>			<u>JAMES DYDO, Ph.D., PE</u>	
	✓				<u>MARK ALBINO</u>	
	✓				<u>MARK MANTON</u>	

* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

Nationwide
v
Omega Flex

3:10cv1596 (SRU)

PLAINTIFF'S TRIAL EXHIBITS

1. Trumbull Fire Marshal Report
2. Longhill Fire Department Summary
3. NFDRS Report (Stipulated by Parties)
4. Trumbull Police Department Incident Report
5. Monroe Fire Marshal Report
6. Lightning Strike Report - (Withdrawn-see Exhibit 21)
- 8/23 Full 7. Loss Scene Photographs Taken by Trumbull Fire Marshal (A to Z)
D (8/23 - 8/11) ✓; A - I (8/26 - 8/11) ✓; K (8/26 - 8/11) ✓
- 8/23 Full 8. Sections of CSST Piping Located in The Basement of the Thornton Home
(Physical Evidence-not in Exhibit Binder) ✓
9. Exemplar Sections of Omegaflex TracPipe CSST
(Physical Evidence-not in Exhibit Binder)
- 8/23 10. Exemplar Sections of Black Iron Pipe
(Physical Evidence-not in Exhibit Binder) ✓
- 8/26 Full 11. Pre-loss Photograph Of Thornton Home (A to Z) (Stipulated by Parties) ✓
12. Loss Scene Photographs Taken by Adjuster (A To Z)
- 8/23 Full 13. Loss Scene Photographs Taken by Vincent Calenda, CFI (A To Z) ✓
1-5, 11-19
14. Photographs Taken by Mark Goodson, PE (A to Z)1
(on CD)
15. Photographs Taken by Thomas W. Eagar, ScD, PE (A to Z)
(on CD)
16. Photographs taken by Sidney Rubin, PE (A to Z)
- 8/23 Full 17. Building Permit & Certificate of Occupancy (Stipulated by Parties) ✓
- 8/23 Full 18. SEM-EDS Analytical Images Taken by Micron (A to Z) ✓
(on CD) (Stipulated by Parties) A - E
- 8/23 ID 19. Logarithm Chart from Eagar Report (For Demonstrative Purposes Only) ✓
- 8/23 ID 20. Video of CSST Fire in Laboratory from Dr. Eagar
(on CD) (Stipulated by Parties) ✓

- 8/23 Full (21.) Strikenet Report (**Stipulated by Parties**) ✓
- 8/26 Full (22.) 2001 Omegaflex Design Guide and Installation Instructions (**Stipulated by Parties**) ✓
- 23. 2002 Omegaflex Design Guide and Installation Instructions (Withdrawn)
- 8/26 Full (24.) U-Tube Video of Fire Scene and Firefighting Efforts (on CD) (**Stipulated by Parties**)
- 8/23 Full (25.) [Intentionally Left Blank] Evidence Transmittal Letter ✓
- 8/27 Full (26.) [Intentionally Left Blank] BOCA National Building Code ✓
- 8/27 Full (27.) [Intentionally Left Blank] Smith Report Photographs (Figs. 45 & 46) ✓
- 28. [Intentionally Left Blank]
- 29. [Intentionally Left Blank]
- 30. Patent Application for Counterstrike (**Withdrawn without Prejudice**)
- 31. Promotional and Marketing Materials from Omegaflex Website (**Withdrawn without Prejudice**)
- 32. Plaintiffs' Interrogatories to Defendant with Responses (Too Large for Notebook-Exhibit to be Produced at Trial)
- 33. Plaintiffs' Request for Production to Defendant with Responses (Too Large for Notebook-Exhibit to be Produced at Trial)
- 8/23 Full (34.) NFPA 921 (select excerpts)(to be admitted through expert) ✓
p. 89, 8.12.8 - p. 90, 8.12.8.5
- 35. NFPA 780 (select excerpts) (to be admitted through expert)
- 36. NFPA 70 (select excerpts) (to be admitted through expert)
- 8/27 Full (37.) Formal Interpretation of NFPA 54, No. 54-99-01 ✓
- 38. Omegaflex Disclosure Regarding Good Morning America Program (**Withdrawn without Prejudice**)
- 39. Floor Plan from Original Home Drawings (Withdrawn)
- 40. Final Order and Judgment—Class Action Suit
- 41. Certified Copy of Nationwide Homeowner's Insurance Policy
- 8/26 Full (42.) Itemization—Crawford Dep. Ex 2 ✓

- 10
- 43. Summary of Thornton Damages (demostrate)
 - 44. Dwelling Payments Totaling \$1,030,350.00 ✓
 - 45. Tice Brothers Agreement for Dwelling Repairs, 8/20/2009, \$978,600.00 ✓
 - 46. Tice Brothers Agreement for Demolition, 8/20/2009, \$51,715.00 ✓
 - 47. Landscaping Invoices totaling \$18,977.00 ✓
 - 48. Landscaping Settlement Documents from Robert Crawford ✓
 - 49. Robert Crawford Landscaping Estimate for \$19,280.04 ✓
 - 50. Emergency Board Up Invoice, \$2,225.96 ✓
 - 51. JP Maguire Invoice for Board Up ✓
 - 52. Contents Settlement in the amount of \$380,000.00 ✓
 - 53. Contents Estimate of Crawford, \$416,690.02 ✓
 - 54. Alternate Living Expense Invoices in the amount of \$58,474.02 ✓

2/26
F-11

Nationwide
Omega Flex

3:10CV1596
(SRU)

8/27/2013
Edition

DEFENDANT'S EXHIBITS

90. Photo taken by David Smith

91. Photo taken by David Smith

8/27 (92) Photo taken by David Smith ✓
(Full)

93. Photo taken by David Smith

94. Photo taken by David Smith

8/23 (95) Photo taken by David Smith ✓
(Full)

96. Photo taken by David Smith

97. Photo taken by David Smith

98. Photo taken by David Smith

99. Photo taken by David Smith

100. Photo taken by David Smith

101. Natural Gas & LP Gas Home Structure Fires

102. TracPipe Certification Training Test

8/23 (103) Photo taken by David Smith ✓
(Full)

104. TracPipe Training Manual

8/26 (105) TracPipe Design Guide and Installation Instructions, April, 2001 ✓
(8/26-p.20-Full) (COMPLETE-FULL)

106. Overvoltage Protection of Low Voltage Systems, Peter Hasse, IEEE London, 2000

107. "Lightning Protection", R.H. Golde, Edward Arnold (London), 1973

108. Duplicate Exhibit - See Exhibit 101 - "Natural Gas and LP-Gas Home Structure Fires", Jennifer D. Flynn, NFPA, Quincy, MA, August 2007

109. "Lightning Conductors", Third Edition, Richard Anderson, London, 1885.

110. Duplicate Exhibit - See Exhibit 101 - J. Flynn, "Natural Gas and LP-Gas Home Structure Fires", National Fire Protection Association Report, January 2010.

111. United States Fire Administration, "Fire in the United States", Ninth Edition, 1985-1994, Federal Emergency Management Agency Report FA-173, July 1997.
112. United States Fire Administration, "Fire in the United States", Tenth Edition, 1986-1995, National Emergency Management Agency Report FA-183, August 1998.
113. United States Fire Administration, "Fire in the United States", Eleventh Edition, 1987-1996, National Emergency Management Agency Report FA-173, August 1999.
114. United States Fire Administration, "Fire in the United States", Twelfth Edition. 1989 1998, National Emergency Management Agency Report FA-216, August 2001.
115. United States Fire Administration, "Fire in the United States", Fourteenth Edition, 1995-2004, National Emergency Management Agency Report FA-311, August 2007.
116. United States Fire Administration, "Fire in the United States", Fifteenth Edition, 2003-2007,
117. United States Fire Administration, "Lightning Fires", Topical Fire Research Series, Volume 2, Issue 6, March 2002,
118. "Residential Lightning Fires in the USA — An Overview", Michael F, Stringfellow,
119. "Residential Lightning Fires in the USA — Electrical Arcs and Fuel Gas Leaks", Michael F. Stringfellow.
120. Photographs of Vincent P. Calenda, September 13, 2011
121. Video of fire scene by First Due Fire Photos: <http://firstduefirephotos.com/>
122. Photographs of the Thornton Residence taken by Vincent Calenda
- 8/27 123. Photographs of the Thornton Residence taken by David Smith
(A-J Full-8/27) (K-N Full-8/27) (O-R Full-8/27) ✓
124. Withdrawn - Property Description Sheet of Thornton Property
- 8/27 125. Vaisala Strikenet Report, run 8/4/09 for 6/26/09 ✓
Full
126. TracPipe® CSST taken from Thornton Residence
- 8/27 127. Conductors (electrical wiring) adjacent to CSST in Thornton Residence ✓ (see enclosure)
(Full)
- 8/27 128. Micron Lab Data to Include Results from Scanning Electron Microscopy and Results ✓
from Energy Dispersive X-ray analysis
(A- Full)

8/23

- 129. Photo Taken by David Smith ✓
full
- 130. Long-Hill Fire Department Incident Report
- 131. Nichols Fire Department Report
- 132. Trumbull Police Department Case/Incident Report including statements of Mark Manton, Mary Beth Thornton, Scott C. Thornton
- 133. Monroe Fire Marshall Division Fire Investigation Report including witness statement of Archane Uppal
- 134. Town of Trumbull Application for Building Permit 10/4/01
- 135. Town of Trumbull Application for Building Permit 7/2/02

8/26

- 136. Trumbull Fire Marshall's Office's Photo Log and Photos ✓
(A-Z - full 8/26)
- 137. Withdrawn - Curriculum Vitae of Dr. Michael Stringfellow
- 138. Withdrawn - Curriculum Vitae of David Smith
- 139. Withdrawn - Curriculum Vitae of Dr. James Dydo
- 140. Withdrawn - Curriculum Vitae of Douglas Buchan
- 141. Performance Standard, ANSI-LC1, 1997 Ed.
(p. 4 - 8/26 - full) (8/26 - full) ✓
- 142. International Mechanical Code, 1996 Ed.
(p. 107 - full - 8/26) ✓
- 143. Guide for Explosion and Fire Investigation, NFPA 921, 1998 & 2008 eds.
- 144. ICC National Fuel Gas Code 1997 & 2000 Eds.
- 145. BOCA Mechanical Code, 1996 Ed.
- 146. International Plumbing Code, 1997 Ed.
- 147. National Fuel Gas Code, NFPA 54, 1999
Copy - full
- 148. "Standard for the Installation of Lightning Protection Systems", NFPA 780, 2000 eds.
- 149. "National Electrical Code", NFPA 70, 1999 ✓
(110.3-D - full - 8/26)
- 150. IEEE Standard 142-1982, "Grounding of Industrial and Commercial Power Systems"

151. IEEE Standard 1100-1999, "Powering and Grounding Electronic Equipment"
152. UL719, Standard for Nonmetallic-Sheathed Cables
153. Advanced systems development – interior piping materials / configuration by Gas Research Institute. Report # GRI 86/0141 dated August 1986. Authors RC Sykes
154. Advanced systems development – interior piping materials / configuration by Gas Research Institute. Report # GRI 86/0300 dated December 1986. Authors RC Sykes et al
155. Interior gas piping systems: building codes analysis by Gas Research Institute. Report # GRI 86/0104 dated June 1987. Authors D Leubs, J. Liebl and R. Torbin
156. State of the Art interior piping systems – part 1 Gas Research Institute. Report # GRI 87/0138.1 dated April 1987. Authors P Belkus, J Valentine, R Torbin
157. State of the Art interior piping systems – part 2 Gas Research Institute. Report # GRI 87/0138.2 dated January 1987. Authors P Belkus, J Valentine, R Torbin
158. State of the Art interior piping systems applications: single family buildings Gas Research Institute. Report # GRI 88/0198 dated November 1988. Authors R Torbin and P Belkus
159. Corrugated stainless steel semi-rigid pipe and associated fittings for low-pressure gas pipework of up to 28 mm (BS 7838-1996) by British Standards Institute dated 15 August 1996.
160. LC-1 Joint Technical Advisory Group/Subcommittee on CSST Meeting Minutes-Working Group on CSST Standard Geometry Profile
161. Minutes of Meeting of Joint U.S. Technical Advisory Group/Canadian Subcommittee on the Standard for Fuel Gas Piping Systems using CSST
162. ANSI LC-1/CGA 6.26 Standard Working Group Minutes of Meeting of Joint US Tag (Interim CSA) Subcommittee on Standards for CSST
163. Minutes of Meeting of Joint US/CSA Technical Advisory Group on Standards for CSST
164. Certification of Approval with install standards from the State of Connecticut
- 8/28 165. CSA Int. (part of IAS) Certificate of Compliance for TracPipe ✓
(A11)
166. SEFTIM Fire Protection Research Foundation, Validation of Installation Methods for CSST Gas Piping to Mitigate Lightning Related Damage (2011)

167. Test reports performed to demonstrate compliance to ANSI LC-1

168. IAS Report June 10, 1999

8/28 ID 169. Acronym Chart ID only

170. Trumbull Fire Marshall Report

171. Letter and Report from Sidney Rubin and Mike Zazzula

172. Pre-loss Photo of Home

173. Residential Fires and CSST Sales (Graph) ✓

8/27 ID 174. Close up of Vaisala Report Loss Location Data (Demonstrative)

8/27 ID 175. Arcing Slide (Demonstrative)

8/27 176. Median Lightning Locations ✓
full

8/27 177. Micron Chain of Custody for Metal Conductors ✓
full

8/23 201. Photograph Taken by David Smith ✓
full

8/23 203. Photograph Taken by David Smith ✓
full

8/23 204. Photograph Taken by David Smith ✓
full

ID 205. Photograph Taken by David Smith

206. Photograph Taken by David Smith ?

ID 250. ID Photograph Taken by Vincent Calenda ✓

ID 8/27 178. NFPA 921: Report on Proposals, 2008, 8.12.8.4(D) (Page of Goodson Report re history of CSST lightning claim) ✓

8/28 179. MANTON PROBABLY SKETCH ✓
full

8/23 207 Photo - Trumbull Fire Dept.
Full