

Heatway Loses Entran II Lawsuit to Goodyear

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Plumbing Industry News

Heatway Systems lost a lengthy legal battle with Goodyear Tire & Rubber Co.

Heatway Systems lost a lengthy legal battle when a federal jury in Cleveland held Goodyear Tire & Rubber Co. blameless for its role in manufacturing the rubber hose the radiant company marketed as Entran II. The jury reached its decision February 3 after three days of deliberation and after three weeks of testimony.

"Frankly, the outcome of this trial was a surprise to everyone-including Goodyear, if they were honest," Heatway president Mike Chiles said the day after the verdict. Chiles had high praise for the evidence presented by his Cleveland legal team. During three days of testimony, for example, an expert witness from the Naval Research Laboratory pointed out that Goodyear used inadequate antioxidants, inappropriate volatile plasticizers and cheap clay fillers in making the hose. A second expert witness testified that Goodyear's failure to properly test the Entran II product for radiant heat purposes led to the problems.

Meanwhile, mechanical contractors from Colorado and Alaska testified that they had employed exactly the same installation methods when installing Heatway's other radiant brands-yet only experienced problems with Entran II hose.

Goodyear argued that the failures were due to Heatway's radiant system design, as well as problems with installation and maintenance by contractors. It said that field inspections showed that leaks were caused by the wrong type of hose connectors and that the hose was damaged by highly acidic fluid. In addition, Goodyear said it had been using the same 20-year-old formula to make hose for other applications, such as air and water hose, without any problems.

In a statement about the jury's decision, Goodyear says it is "obviously very gratified by the verdict. We always have believed that the Entran II hose was appropriate for use in radiant home heating systems when it was sold."

Chiles said the numbers just didn't add up for his side. "The jury looked at the fact that there had only been 658 cases of failure out of 10,000 installations," he said, "and didn't think that was a high enough failure rate. After the verdict, Chiles said his lawyers interviewed the jury and many expressed "the sentiment that if there had been two or three times as many cases of failure, we would have won."

While Heatway lost this case, Goodyear's "win" may be far from solid. "They're not out of the woods at all," Chiles said. "We have unearthed some ugly internal memos as a result of our discovery process. It's our firm belief that Goodyear will pay for this problem-it's just going to take a couple of more years and more litigation."

Chiles added that the courtroom was packed with plaintiff attorneys from across the country who are in line to sue Goodyear next. Heatway failed on its claim of a "breach of implied warranty of merchantability." However, Goodyear still faces a growing number of homeowner claims and will have to fight other legal theories of liability.

Heatway bought 25 million feet of the hose between 1989 and 1993. But the hose soon began to crack and leak, causing extensive damages. Entran II tubes started out orange and flexible, like garden hoses. Over time, the tube released plasticizers that hardened the tube, effectively dissolving in hot water, according to expert testimony. The first phase of the problem begins with leaks where the hose connects to the manifold, and continues until the tube spontaneously cracks and leaks elsewhere.

There are about 10,000 radiant heating systems in the United States that contain Entran II tubes, and Heatway has spent more than \$6.5 million to settle more than 100 claims since 1992.

Despite the verdict against Heatway, Denver attorney William Maywhort has advised clients that the Ohio jury verdict for Goodyear does not prevent Colorado residents who have Entran II hose in their homes from suing Goodyear. "In fact, suing Goodyear and Heatway directly now may be the homeowners only option for recovering for the damage caused by Entran II," said Maywhort, who represents more than a dozen Colorado homeowners who have experienced problems with the Entran II hose.