

Science Shows Hot Shot's Bedbug Product A Sham, Suit Says

By **Collin Krabbe**

Law360 (January 23, 2024, 8:04 PM EST) -- A Hot Shot-branded pesticide product presented as a "bedbug & flea fogger" is a sham that researchers have found to be ineffective for bedbugs, according to a proposed class action in New York federal court.

Plaintiff Jon Martin alleges in a complaint filed Friday that the product failed to remediate his bedbug problem. Further, the complaint points to the results of a 2012 Ohio State University study analyzing the effectiveness of the fogger. According to Martin, the study concluded bedbugs "showed little, if any, adverse effects" after two hours of direct exposure to the product's main active ingredient, aerosolized pyrethroids.

When researchers gave bedbugs optional "harborage" — places to hide and avoid direct exposure to the mist — even fewer died, according to the complaint. An important point made by the researchers, the suit said, is that "in 'residences and other settings, the majority of bed bugs hide in protected sites' ... rendering the product completely ineffective for real-world use."

Those researchers aren't alone in their findings, the complaint contends.

"Indeed, for years, scientists have agreed that foggers like the product should not be recommended for control of household pests because there is minimal penetration of the insecticide into pest harborage sites," the lawsuit says.

For example, the suit points to the U.S. Environmental Protection Agency for the assertion that bedbugs often hide, and that foggers shouldn't be used as the only source of control — and that the pesticides must actually contact the pest to kill it.

Additionally, the Washington State Department of Health has said "foggers don't work when trying to get rid of bedbugs and other insects that hide" and that they only treat "exposed surfaces" where the pesticide lands.

Still, despite the science, defendants United Industries Corp. and Spectrum Brands Inc. have continued to falsely represent that the fogger "KILLS BED BUGS." The fogger also has a picture of a bedbug, bolstering the suggestion that it has "specific efficacy for eradicating bedbugs," the suit says.

"Given that experts in the field have published information since the 1990s regarding the inefficacy of fogger products like the product and given that the 2012 study conclusively demonstrated that defendants' product does not work, [they] knew or should have known that their representations were false, but they continued to knowingly misrepresent the product to consumers," Martin's suit contends.

He proposes a class of people in the U.S. that bought the product and alleges deceptive acts or practices, false advertising, breach of express warranty, breach of the implied warranty of merchantability, unjust enrichment and fraud.

Representatives for Spectrum Brands and United Industries Corp. did not immediately return a request for comment Tuesday.

Martin is represented by Joshua Arisohn of Bursor & Fisher PA.

Counsel information for Spectrum Brands and United Industries was not immediately available.

The case is Martin v. United Industries Corp. et al., case number 7:24-cv-00433, in the U.S. District Court for the Southern District of New York.

--Editing by Andrew Cohen.

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