

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

DR. WARREN KLUGER, et al.,

Plaintiffs,

v.

Case No.3:11-cv-554-J-12TEM

EXCELLENT DESIGNER HOMES OF
JACKSONVILLE, et al.,

Defendants.

ORDER

This cause is before the Court on "Titan Propane's Motion to Dismiss...or, Alternatively, Motion for More Definite Statement" (Doc. 23)(motion to dismiss), filed July 15, 2011. Defendant Titan Propane, LLC (Defendant Titan Propane), seeks dismissal of Counts XXII through XXV of Plaintiffs' Complaint (Doc. 2) which assert causes of action for strict products liability (Count XXII at ¶¶ 284-303), breach of express or implied warranty (Count XXIII at ¶¶ 304-308), violation of Fla. Stat. § 553.84 (Count XXIV at ¶¶ 309-326), and breach of third party beneficiary contract (Count XXV at ¶¶ 327-333). Defendant Titan Propane, LLC does not seek dismissal of a duplicate Count XXII (Doc. 2 at ¶¶ 276-283) asserting Plaintiffs' claim for negligence. As of the date of this Order, Plaintiffs have not filed a response in opposition to the motion, and therefore the Court considers the motion to dismiss unopposed. See M.D.Fla. R. 3.01(b). Accordingly, it is

ORDERED AND ADJUDGED:

That Defendant "Titan Propane's Motion to Dismiss... or, Alternatively, Motion for More Definite Statement" (Doc. 23) is hereby granted; and Counts XXII through XXV of Plaintiffs' Complaint (Doc. 2), which assert causes of action for strict products liability

(Count XXII at ¶¶ 284-303), breach of express or implied warranty (Count XXIII at ¶¶ 304-308), violation of Fla. Stat. § 553.84 (Count XXIV at ¶¶ 309-326), and breach of third party beneficiary contract (Count XXV at ¶¶ 327-333) are hereby dismissed. The duplicate Count XXII of Plaintiffs' Complaint (Doc. 2 at ¶¶ 276-283) asserting a cause of action for negligence against Defendant Titan Propane, LLC remains pending.

DONE AND ORDERED this 10th day of August 2011.

Howell W. Melton
Senior U.S. District Judge

c: Counsel of Record