UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Shaun Sater et al.,

Plaintiffs,

v.

Chrysler Group LLC et al.,

Defendants.

EDCV 14-700-VAP (DTBx)

ORDER GRANTING DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

On September 13, Defendant FCA US LLC, f/k/a Chrysler Group LLC, filed a motion for partial summary judgment as to all claims of Texas Plaintiff Scott Johnson and all claims on issue of defect. (Doc. No. 176.) On October 3, 2016, Plaintiffs Jeff Looper, Michael Bright, and Scott Johnson filed their Opposition. (Doc. No. 186.) On October 10, 2016, Defendant filed its Reply. (Doc. No. 192.) After reviewing and considering all papers filed in support of, and in opposition to, the Motion, the Court GRANTS the Motion.

I. BACKGROUND

Plaintiffs initiated the present action against Defendant, on April 9, 2014. (Doc. No. 1.) In their operative complaint, Plaintiffs allege a variety of claims against Defendant on behalf of a class of persons who own or lease the following 2009-12 Dodge Ram trucks: 2500 4x4; 3500 4x4; 3500 Cab Chassis 4x2; 4500 all series; and 5500 all series ("class vehicles"). Third Amended Complaint at 1. Plaintiffs Bright and Looper allege claims under federal and California law for: violation of the federal Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, et seq. (Count I); violation of the California Song-Beverly Warranty

Act, Cal. Civ. Code section 1791, et seq. (Count II); violation of the California Consumer Legal Remedies Act, Cal. Civ. Code section 1750, et seq. (Count III); violation of California Unfair Competition Law, Cal. Bus. & Prof. Code section 17200, et seq. (Count IV); negligent failure to warn (Count VI); negligent failure to test (Count VII); and negligent misrepresentation (Count VIII). Plaintiff Johnson alleges a single claim under the Texas Deceptive Trade Practices Act ("DTPA"), Tex. Bus. & Com. Code section 17.46, et seq. (Doc. No. 101.)

II. LEGAL STANDARD

A motion for partial summary judgment, like summary judgment, shall be granted when there is no genuine issue as to any material fact, and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986); Nat'l Union Fire Ins. Co. of Pittsburgh, PA v. Ready Pac Foods, Inc., 782 F. Supp. 2d 1047, 1053 (C.D. Cal. 2011). The moving party must show that "under the governing law, there can be but one reasonable conclusion as to the verdict." Anderson, 477 U.S. at 250.

Generally, the burden is on the moving party to demonstrate that it is entitled to summary judgment. Margolis v. Ryan, 140 F.3d 850, 852 (9th Cir. 1998); Retail Clerks Union Local 648 v. Hub Pharm., Inc., 707 F.2d 1030, 1033 (9th Cir. 1983). The moving party bears the initial burden of identifying the elements of the claim or defense and evidence that it believes demonstrates the absence of an issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).

Where the non-moving party has the burden at trial, however, the moving party need not produce evidence negating or disproving every essential element of the non-moving party's case. Celotex, 477 U.S. at 325. Instead, the moving party's burden is met

by pointing out that there is an absence of evidence supporting the non-moving party's case. Id.

"If a moving party fails to carry its initial burden of production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial." Nissan Fire & Marine Ins. Co. v. Fritz Co., 210 F.3d 1099, 1102–03 (9th Cir. 2000). "In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything." Id. at 1103.

If the moving party carries its burden of production, however, the burden then shifts to the non-moving party to show that there is a genuine issue of material fact that must be resolved at trial. See Fed. R. Civ. P. 56(e); Celotex, 477 U.S. at 324; Anderson, 477 U.S. at 256; Nissan Fire, 210 F.3d at 1103. The non-moving party must make an affirmative showing on all matters in issue by the motion as to which it has the burden of proof at trial. Celotex, 477 U.S. at 322; Anderson, 477 U.S. at 252. See also William W. Schwarzer, A. Wallace Tashima & James M. Wagstaffe, FEDERAL CIVIL PROCEDURE BEFORE TRIAL, § 14:144. "This burden is not a light one. The non-moving party must show more than the mere existence of a scintilla of evidence." In re Oracle Corp. Secs. Litig., 627 F.3d 376, 387 (9th Cir. 2010) (citing Anderson, 477 U.S. at 252).

A genuine issue of material fact will exist "if the evidence is such that a reasonable jury could return a verdict for the non-moving party." Anderson, 477 U.S. at 248. In ruling on a motion for summary judgment, a court construes the evidence in the light most favorable to the non-moving party. Barlow v. Ground, 943 F.2d 1132, 1135 (9th Cir. 1991); T.W. Elec. Serv. Inc. v. Pac. Elec. Contractors Ass'n, 809 F.2d 626, 630-31 (9th Cir. 1987).

III. FACTS

To the extent certain facts or conclusions are not mentioned in this Order, the Court has not relied on them in reaching its decision. The Court has considered independently the admissibility of the evidence that both parties submitted and has not considered irrelevant or inadmissible evidence.

The following material facts are supported adequately by admissible evidence and are uncontroverted. They are "admitted to exist without controversy" for the purposes of this Motion. See L.R. 56-3.

A. Initial Discovery of Defect

This case concerns a steering linkage defect in the class vehicles.[1] Each class vehicle came factory-equipped with a newly-designed "Cross Car" steering linkage system.[2] (Plaintiffs' Statement of Undisputed Facts ("PSUF") ¶ 2.) A steering linkage system is a set of components that attach to a vehicle's wheels, causing the wheels to turn when the driver rotates the steering wheel. (PSUF ¶ 3.) Within those components are tie rods that connect the two front wheels and transfer steering motion between them, as well as ball studs that move forward or backward, or "articulate," to accommodate turning and bumps on the road. (PSUF ¶ 4; Hannemann Decl ¶ 31.)

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[1] In its Reply, Defendant notes that it "vehemently contests the accuracy of most of the purported 'facts' set forth by Plaintiffs in their opposition," but does not offer any evidence to controvert Plaintiffs' purported facts. The Court, therefore, accepts the facts noted above as true for the purposes of this motion for partial summary judgment. See Bond v. Knoll, No. EDCV 11-1929, 2014 WL 7076901, at *2 (C.D. Cal. Dec. 10, 2014) ("Properly supported facts contained in Plaintiff's SUF and Defendants' SUF are accepted as true to the extent they have not been controverted.").

[2] The "Cross Car" steering linkage system takes its name from the fact that it crosses underneath the truck all the way from one front wheel to the other. (Opposition at 3; Doc. No. 185-5 at 14-15.)

Plaintiffs have presented undisputed evidence that the class vehicles suffered from a design flaw that could cause the driver's side ball stud to break and result in a loss of steering control. (PSUF ¶ 17-21.) As early as December 2007, an engineer employed by Defendant reported internally that, during testing, the driver's side ball stud was fracturing from what appeared to be repeated contact between the stud and the socket window. (PSUF ¶ 24.) The steering linkage system supplier verified that the December 2007 stud fracture was due to repeated contact between the stud and the socket window. (PSUF ¶ 25.) In July 2008, an internal report noted that the steering linkage tie rod end was being replaced at rates so high that an "[i]nvestigation [was] [r]equired." (PSUF ¶ 29.)

As early as March 2009, Defendant's internal reports suggested that the tie rod alignment feature might need to be redesigned. (PSUF ¶ 33.) In October 2009, Defendant issued an internal part-change notice that called for the installation of an "anti-rotation feature" in future vehicles "to . . . maintain parallel alignment of left and right hand ball studs" and "minimize the chance of ball joint damage." (PSUF ¶¶ 38-40.) In April 2010, one of Defendant's employees responded to customer complaints concerning tie rod failures by noting that "[w]e are familiar with this issue . . . . [and] have a long-term production fix being validated, which will be an anti-rotation device on the tie rod. This will be in production next spring." (PSUF ¶¶ 49-52.) In June 2010, another one of Defendant's employees reported that there was "an alarming rate of failures of the tie rod end ball studs" in the class vehicles and was told by a different employee within the company that "a part design [was] in process to help." (PSUF ¶¶ 53, 54.)

B. Defendant's Defect Disclosure and Recalls

In December 2010, Defendant contacted the National Highway Traffic Safety Administration ("NHTSA") to disclose it had "recently" determined that "misalignment

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