IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOUGLAS BIEDA,	)	
	)	
Plaintiff,	)	Civil Action No. 19-967
	)	Magistrate Judge Maureen P. Kelly
v.	)	
	)	Re: ECF No. 58
CNH INDUSTRIAL AMERICA LLC, and LAMB & WEBSTER, INC.,	)	
	)	
Defendants.	)	

OPINION

Plaintiff Douglas Bieda ("Bieda") initiated this action against Defendant CNH Industrial America LLC ("CNH") and Lamb & Webster, Inc., ("L&W"), alleging claims arising out of his purchase of a defective CNH crop planter.[1]

Presently before the Court is a Motion for Summary Judgment filed on behalf of CNH, ECF No. 58, seeking judgment in its favor as to Bieda's claim for breach of the implied warranty of merchantability. For the following reasons, the Motion for Summary Judgment will be denied.[2]

I. FACTUAL AND PROCEDURAL BACKGROUND

Resolution of the CNH's Motion for Summary Judgment and consideration of the arguments of the parties requires review of the evidence of record. The following material facts are undisputed unless otherwise noted.[3]

[1] Bieda initially filed this action against L&W and Case New Holland Industrial, Inc. ECF No. 1-1. The parties subsequently stipulated that CNH Industrial America LLC is the proper manufacturer-defendant. ECF Nos. 19-20.

[2] In accordance with the provisions of 28 U.S.C. § 636(c)(1), the parties voluntarily consented to a United States Magistrate Judge conducting all proceedings in this case, including the entry of a final judgment. ECF Nos. 11, 12.

[3] The facts are taken from the evidence of record that is either undisputed as indicated by the parties in the Joint Statement of Undisputed Facts, ECF No. 55, or not fairly disputed on the record.

Bieda and his wife own and operate Lonestar Farms in Indiana County, Pennsylvania. ECF No. 55-2 at 8-9. In January 2018, Bieda purchased a CNH 2018 Case IH 2150 12 Row 30 Planter (the "Planter") with optional attachments, including a hydraulic down force attachment, a hydraulic wing down force attachment, and a 22 gpm PTO pump. These items were purchased from L&W, a CNH dealer, for $168,000. ECF Nos. 55 ¶ 1, 55-1. Bieda chose the CNH Planter to use with a CNH tractor already in his possession. The Planter was delivered to Bieda's farm on April 17, 2018, and it did not appear to be missing any readily identifiable items that had been ordered.

Bieda set up the Planter himself. On May 7 and 9, 2018, an L&W technician visited Bieda's farm to confirm the set up was proper and to calibrate the Planter, as agreed in the sales contract. At the time of sale and when this work was performed, L&W's technician was not aware that in 2016, CNH determined that the 22 gpm PTO Pump could not provide sufficient hydraulic pressure to operate the Planter correctly. To remedy this defect, CNH developed a PTO Auxiliary Hydraulic Completing Kit (the "Hydraulic Completing Kit") to plumb the DeltaForce system directly to the tractor's hydraulics. Id. at 3-4; and see ECF Nos. 63-2, 63-3. It is undisputed that CNH did not incorporate or supply this required additional equipment with Bieda's Planter at the time of delivery.

After calibration was completed on May 9, L&W's representative left Bieda's farm. Shortly thereafter, Bieda attempted to operate the Planter, but received an error code indicating the Planter's attachments were not receiving necessary hydraulic pressure. Id. Bieda contacted L&W several times and was instructed to take various steps to resolve the issue, but each failed. On May 30, L&W's technician returned to the farm to diagnose the malfunction. Id., and see ECF No. 55-2 at 198-99. The technician located a Knowledge Article that CNH published in its dealer

database on January 31, 2018. The article explained the defect with the hydraulic system and the need for the Hydraulic Completing Kit to permit proper operation. The evidence is undisputed that CNH failed to take steps to separately advise dealers (or purchasers) of the malfunction or the need to add a Hydraulic Completing Kit with each Planter sale. ECF No. 1 ¶ 17-18.

L&W ordered the Hydraulic Completing Kit on May 31, 2018. However, Bieda did not receive the kit until July 2. By that time, Bieda's 2018 planting season had been completed. ECF No. 55 at 4. Bieda alleges that because of the inoperable Planter, his 2018 corn crop was not planted at a sufficient depth. He estimates that he suffered $250,000 in crop yield losses. ECF No. 1-1 ¶¶ 15-19.

By letter dated January 4, 2019, Bieda's counsel notified L&W and CNH of his crop loss claim as well as implied warranty claims related to the CNH's sale and delivery of a malfunctioning Planter. ECF No. 55-10. Prior to sending this letter, Bieda concedes he did not contact CNH directly to submit a warranty claim or to report the malfunction, choosing instead to communicate with L&W as CNH's authorized dealer. ECF No. 55 at 5. Because the 2018 planting season was over, L&W's technician installed the Hydraulic Completing Kit on January 22, 2019 in preparation for the 2019 season. Following installation, Bieda did not experience any further issues with the Planter's hydraulic pressure or DeltaForce system. Id.

At the beginning of the 2019 crop season and after planting 186 acres of corn, Bieda noticed that the fourth row of the Planter was dragging in the field and not operating properly. Id. at 5-6. Bieda identified the cause of the dragging as a bad bearing on the seed disk, which he replaced. Bieda also discovered that some parts to the control linkage of the fourth row of the planter were missing. Bieda replaced the missing parts and continued his planting for the 2019 season. Id.

Bieda alleges that these missing parts resulted in partial planting at an insufficient depth, and additional crop yield losses. ECF No. 1-1 ¶¶ 22-24.

Bieda commenced this action in the Court of Common Pleas of Indiana County, Pennsylvania, asserting claims for breach of implied warranties of merchantability and fitness for a particular purpose, and for breach of contract. ECF No. 1-1. CNH removed the lawsuit to this Court pursuant to 28 U.S.C. § 1441(b), based on diversity jurisdiction. ECF No. 1 ¶¶ 7-9. L&W filed a Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, raising disclaimers for breach of implied warranty claims set forth in the relevant sales documents. ECF No. 7 at 6. The Court agreed that as to L&W, the disclaimers were valid and so dismissed Bieda's implied warranty claims against L&W. ECF No. 16. L&W and Bieda subsequently resolved Bieda's breach of contract claim against L&W. ECF Nos. 65-66.

Bieda's remaining claim is asserted against CNH for breach of the implied warranty of merchantability (Count I). ECF No. 1-1 at 8. CNH contends that it is entitled to summary judgment in its favor as a matter of law for two reasons: first, because under applicable Pennsylvania law, CNH validly and conspicuously disclaimed all implied warranties in its sales documents and, second, because Bieda failed to provide notice to CNH of his "issues with the equipment" as required by 13 Pa. C.S. § 2607(c)(1). ECF Nos. 59, 60.

In his Brief in Opposition, Bieda responds that CNH misrepresented the condition of the Planter at the time of sale and knowingly sold defective equipment. Bieda contends that this conduct renders any disclaimer of implied warranties unconscionable and void. ECF No. 63. Bieda also argues that his complaints to L&W satisfy any statutory notice requirement, based on L&W's status as CNH's authorized sales agent. Id.

In reply, CNH contends that any claim for negligent misrepresentation by CNH regarding the condition of the Planter is barred by the parol evidence rule and the applicable statute of limitations and is otherwise irrelevant given the clear exclusion of implied warranties. CNH further responds that notice to L&W is not sufficient to provide notice to CNH, given the disclaimer of an agency relationship in the relevant CNH-L&W dealer agreement. ECF No. 64. The Motion for Summary Judgment is now ripe for consideration.

II. STANDARD OF REVIEW

Rule 56 of the Federal Rules of Civil Procedure provides that: "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). An issue of material fact is in genuine dispute if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986); see also Doe v. Abington Friends Sch., 480 F.3d 252, 256 (3d Cir. 2007) ("A genuine issue is present when a reasonable trier of fact, viewing all of the record evidence, could rationally find in favor of the non-moving party in light of his burden of proof"). Thus, summary judgment is warranted where, "after adequate time for discovery and upon motion ... a party ... fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Marten v. Godwin, 499 F.3d 290, 295 (3d Cir. 2007) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)).

The moving party bears the initial burden of demonstrating to the court that there is an absence of evidence to support the non-moving party's case. Celotex, 477 U.S. at 322; see also Conoshenti v. Pub. Serv. Elec. & Gas Co., 364 F.3d 135, 140 (3d Cir. 2004). "[W]hen the moving party has carried its burden under Rule 56(c), its opponent must do more than simply

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