

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT YANZ,

Plaintiff,

v.

MENARD INC., et al.,

Defendants.

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Case No. 17 C 3423

MEMORANDUM ORDER

Menard Inc. ("Menard"), one of the defendants in this action brought by Robert Yanz ("Yanz"), has filed a Partial Motion To Dismiss Count II of Yanz's First Amended Complaint -- a count advancing a product liability claim against Menard. On July 10, 2017 Yanz filed his Response (Dkt. No. 22) to Menard's motion, quoting 735 ILCS 5/2-621 in full.

That statute is clear -- its Subsection 2-621(b)(1) would preserve the product liability claim against Menard if, as is anticipated, manufacturer Agio International Co., Ltd. ("Agio") moves for its dismissal as a defendant on statute of limitations grounds. Accordingly Yanz is correct in characterizing Menard's current motion as premature, and the motion is denied without prejudice pending Agio's filing of its pleading or responsive motion.



Milton I. Shadur
Senior United States District Judge

Date: July 21, 2017