

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

CROP PRODUCTION SERVICES, INC.,)
)
)
 Plaintiff,)
)
 v.) 2:12-cv-182-WGH-JMS
)
)
ROBINSON V., INC., and)
BYRON E. ROBINSON,)
)
 Defendants.)

ORDER DENYING
MOTION FOR SUMMARY JUDGMENT

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, upon the consents of the parties found in their Case Management Plan (Dkt. 21) and the Order of Reference entered by District Judge Jane Magnus-Stinson on September 27, 2012 (Dkt. 22).

Plaintiff filed its Motion for Summary Judgment on January 13, 2014. (Dkt. 59-60.) Defendants filed their response on February 10, 2014. (Dkt. 64.) Plaintiff's reply was filed on February 27, 2014. (Dkt. 65.)

Plaintiff's Motion for Summary Judgment is DENIED for the following reasons:

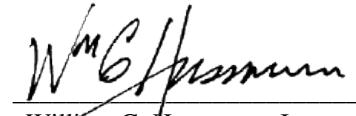
- 1. The amount at issue is a significantly large sum of money.**
- 2. The evidence submitted by Defendants raises genuine issues of material fact as to whether invoices were accurate and whether the fertilizer and other**

materials were properly applied. (See Michael Morrison Dep. 81:5-16 and 114:17 through 115:4.)

3. The question whether the guaranty language in the Customer Profile/Commercial Credit Agreement (Dkt. 47-3) is conspicuous and should be enforceable against Mr. Robinson must be considered in light of the fact that Mr. Robinson may not be able to read. The Magistrate Judge believes it is more prudent to determine whether Mr. Robinson knowingly executed the personal guaranty upon consideration of all the facts surrounding these transactions.

This case remains set for the telephonic status conference on March 31, 2014, at 9:00 a.m., Terre Haute time (EDT), for final pretrial conference on May 22, 2014, at 10:00 a.m., Terre Haute time (EDT), and for jury trial on June 9, 2014.

SO ORDERED the 10th day of March, 2014.



William G. Hussmann,
United States Magistrate Judge
Southern District of Indiana

Served electronically on all ECF-registered counsel of record.