

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TWIN COUNTY HVAC/REFRIGERATION, LLC.,

Plaintiff,

MEMORANDUM AND ORDER

-against-

CV 10-2277 (LDW) (GRB)

AHOLD USA, INC. d/b/a STOP & SHOP
SUPERMARKET and AHOLD FINANCIAL
SERVICES, LLC.,

Defendants.

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WEXLER, District Judge

Plaintiff Twin County HVAC/Refrigeration, LLC. brought this action against defendants Ahold USA, Inc. d/b/a Stop & Shop Supermarket and Ahold Financial Services, LLC. in state court claiming defendants failed to pay plaintiff for certain services rendered to defendants. Defendants removed the action to this Court based on diversity jurisdiction. Defendants served their answer, denying plaintiff's claims and asserting counterclaims for breach of contract and unjust enrichment. Presently before the Court is defendants' motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure ("FRCP"). Plaintiff opposes the motion, requesting not only denial of defendants' motion, but an award of summary judgment in its favor as the nonmovant under FRCP 56(f).

Upon consideration, the Court finds that genuine disputes of material fact exist precluding the entry of summary judgment. *See* FRCP 56(a) (party seeking summary judgment must demonstrate that "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law"); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Accordingly, defendants' motion for summary judgment is denied. In addition, plaintiff's request for summary judgment as the nonmovant is also denied.

The parties are advised that jury selection is scheduled for November 30, 2015, at 9:30 a.m.

SO ORDERED.

_____/s/_____
LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
August 27, 2015