

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**A/Z CORPORATION,  
Plaintiff**

v.

**LOWE'S HOME CENTER, LLC,  
Defendant**

v.

**SMART START LIGHTING, LLC,  
Third-Party Defendant**

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**No. 1:15-cv-533**

**(Judge Kane)**

**ORDER**

**AND NOW**, on this 31<sup>st</sup> day of March 2016, **IT IS HEREBY ORDERED THAT**

Third-Party Defendant Smart Start Lighting, LLC's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), (Doc. No. 18), is **GRANTED** as follows:

1. Plaintiff A/Z Corporation's unjust enrichment claim, raised in Count IV of the Rule 14(a)(3) claim (Doc. No. 11), is **DISMISSED WITHOUT PREJUDICE**;
2. Plaintiff A/Z Corporation's fraud claim, raised in Count V of the Rule 14(a)(3) claim (Doc. No. 11), is **DISMISSED WITHOUT PREJUDICE**;
3. Plaintiff A/Z Corporation is granted leave to amend its Rule 14(a)(3) claim, (Doc. No. 11), within thirty days of the date of this order to cure the defects noted in the accompanying memorandum;
4. Defendant Lowe's Home Center, LLC's "sole liability and liability over" claims, raised in Count II of the third party complaint (Doc. No. 6), are **DISMISSED WITH PREJUDICE**; and
5. Defendant Lowe's Home Center, LLC's "exoneration" claim, raised in Count III of the third party complaint (Doc. No. 6), is **DISMISSED WITH PREJUDICE**.

S/ Yvette Kane  
Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania