UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA

DANIEL ROSENFIELD,

Plaintiff,

v.

CIVIL ACTION NO. 4:18-cv-00568

(SAPORITO, M.J.)

THOMAS P. FRANK, et al.,

Defendants.

ORDER

AND NOW, this 4th day of June, 2019, in accordance with the accompanying Memorandum, IT IS HEREBY ORDERED THAT:

1. The defendants' motion for judgment on the pleadings (Doc. 16) is **GRANTED in part and DENIED in part**—the motion is granted with respect to dismissal of the plaintiff's claims for failure to state a claim upon which relief can be granted, and it is denied with respect to the defendants' request for the entry of judgment as a matter of law on their abuse of process counterclaim;

2. Counts I, II, and III of the complaint, asserting state law claims of negligent misrepresentation, fraud, and unfair trade practices, are **DISMISSED with prejudice**;

3. The plaintiff is granted leave to file an amended complaint within 21 days of the date of this Order, adding any contract or

warranty causes of action that the facts may support; and

4. The parties shall proceed with discovery concerning the defendants' counterclaim, asserting a state law claim of abuse of process.

<u>s/Joseph F. Saporito, Jr.</u> JOSEPH F. SAPORITO, JR. United States Magistrate Judge