

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

TERNIUM INTERNATIONAL U.S.A.	)	
CORP.,	)	
	)	
Plaintiff/Counter Defendant,	)	CIVIL ACTION NO.
	)	
VS.	)	3:08-CV-0816-G
	)	
CONSOLIDATED SYSTEMS, INC.,	)	ECF
	)	
Defendant/Counter Claimant.	)	

**MEMORANDUM OPINION AND ORDER**

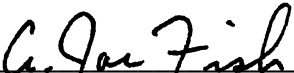
Before the court is the motion of the plaintiff, Ternium International U.S.A. Corp. (“Ternium” or “the plaintiff”), to dismiss two counterclaims asserted by the defendant, Consolidated Systems, Inc. (“CSI”). The court has already dismissed three of the defendant’s counterclaims against Ternium after concluding that Texas law, rather than South Carolina law, governs this dispute. The three counterclaims the court has already dismissed were based entirely on South Carolina law, which does not apply here.

After filing the original counterclaims, the defendant then filed an amended counterclaim, asserting three new causes of action: (1) breach of express warranty,

(2) breach of the implied warranty of merchantability and (3) breach of the implied warranty of fitness for a particular purpose. Defendant Consolidated Systems, Inc.'s Amended Counterclaims Against Plaintiff Ternium International U.S.A. Corp. ¶¶ 70-86. CSI expressly bases two of these new claims -- breach of the implied warranty of merchantability and breach of the implied warranty of fitness for a particular purpose -- on South Carolina law. *Id.* at ¶¶ 76, 82. Because, as the court has already ruled, Texas law rather than South Carolina law applies, Ternium's motion to dismiss these two claims is **GRANTED**.

**SO ORDERED.**

March 25, 2009.

  
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A. JOE FISH  
Senior United States District Judge