NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

JOHN J. LATZANICH II, Appellant v. SEARS ROEBUCK AND COMPANY, SEARS HOLDINGS CORPORATION AND DOES 2-10	: : : : : : : : : :	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 3894 EDA 2017

Appeal from the Order Entered October 24, 2017
In the Court of Common Pleas of Monroe County
Civil Division at No(s): 8634-CV-2015

BEFORE: BOWES, J., OTT, J., and FORD ELLIOTT, P.J.E.

MEMORANDUM BY OTT, J.: **FILED JUNE 27, 2018**

John J. Latzanich, II, appeals *pro se* from the order entered October 24, 2017, in the Court of Common Pleas of Monroe County, granting summary judgment in favor of Sears Roebuck and Company and Sears Holdings Corporation (Sears).[1] In this timely appeal, Latzanich raises two claims that the trial court erred in denying his discovery requests, and that, as a subsequent result of his inability to conduct discovery, erred in granting summary judgment in favor of Sears. After a thorough review of the

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[1] Latzanich never identified, much less served, any of the John Doe defendants. The trial court specifically dismissed the entire action after granting summary judgment in favor of Sears, therefore the order is final and appealable. Latzanich does not appeal the dismissal of the non-existent claims against the John Doe defendants.

submissions by the parties, relevant law, and the certified record, we affirm based on the well-reasoned opinions of the Honorable David J. Williamson, dated June 13, 2016, April 7, 2017 and October 24, 2017.[2] The parties are directed to attach copies of the opinions in the event of further proceedings.

A brief history of this matter is required. Latzanich purchased a used lawnmower from Sears Roebuck in Stroudsburg, Pennsylvania, on July 10, 2012. The lawnmower cost approximately $200.00. Sears provided a two-year warranty on the machine, which was identical to the warranty given on a new lawnmower. Latzanich used the lawnmower through 2012 and 2013. In May, 2014, while still under warranty, the self-propel feature malfunctioned. Sears repaired the lawnmower, charging Latzanich only for a new mower blade, which was not covered under the warranty. The lawnmower functioned for the rest of the 2014 mowing season. In May, 2015, approximately 10 months after the two-year warranty expired, Latzanich alleged the self-propel feature again failed. Rather than pay the approximate $150.00 fee to have the machine repaired, Latzanich filed suit. The complaint contained four causes of action: 1) rescission,[3] 2) intentional and negligent misrepresentation, 3) violation of the Pennsylvania Unfair Trade Practices and

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[2] These opinions address Latzanich's initial motion to compel answers to interrogatories and request for production of documents, motion to compel supplemental answers to interrogatories and supplemental request for production of documents, and the grant of summary judgment in favor of Sears, respectively.

[3] We note rescission is not a cause of action, it is a remedy.

Consumer Protection Law, and 4) breach of implied and express warranties. Latzanich sought actual damages, punitive damages (not to exceed 10% of defendants' net worth), attorneys' fees, prejudgment interest, and injunctive relief forbidding Sears from selling lawnmowers in Pennsylvania and from conducting any business in Pennsylvania.

During the course of the lawsuit, Latzanich sought production of documents and answers to interrogatories from Sears. Sears objected to many of the requests as irrelevant and/or vague and overbroad. Examples of the objected to information sought by Latzanich were: information regarding the prior owner of his lawnmower, all other similar lawnmowers sold by Sears, and all lawnmower advertising by Sears. The trial court agreed with Sears and denied most of Latzanich's discovery requests.[4]

At the close of discovery, Sears filed for summary judgment, which was granted by the trial court, having determined Sears had repaired the lawnmower which it was still covered by the warranty and when the machine allegedly malfunctioned the second time, it was no longer covered by the warranty. Additionally, Latzanich had produced no evidence demonstrating even the possibility of entitlement to relief on any of his other claims.

Our standard of review for a denial of a discovery motion is as follows:

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[4] Depositions of Sears' representatives were conducted and written discovery such as repair information and bills for the lawnmower after it was purchased by Latzanich were supplied.

> Orders regarding discovery matters are subject to the discretion of the trial court. ***McNeil v. Jordan***, 586 Pa. 413, 894 A.2d 1260 (2006) . . . An appellate court will not disturb discovery orders without a "showing of manifest, unreasonableness, partiality, prejudice, bias, ill will, or such lack of support in the law or record for the [trial court's action] to be clearly erroneous." ***Samuel-Bassett v. Kia Motors, Inc.***, 613 Pa. 371, 34 A.3d 1, 51 (2011).

Hill V. Kilgallen, 108 A.3d 934, 941 (Pa. Super. 2015).

Our standard of review for the grant of a motion for summary judgment is well known:

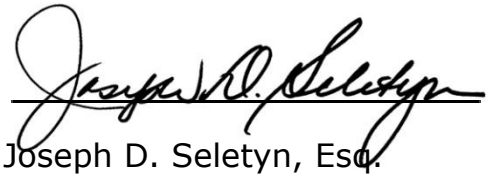
> This court will only reverse the trial court's entry of summary judgment where there was an abuse of discretion or an error of law. ***Merriweather v. Philadelphia Newspapers, Inc.***, 453 Pa.Super. 464, 684 A.2d 137, 140 (1996). Summary judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Pa.R.C.P. 1035.2. In determining whether to grant summary judgment a trial court must resolve all doubts against the moving party and examine the record in the light most favorable to the non-moving party. ***Id.*** Summary judgment may only be granted in cases where it is clear and free from doubt that the moving party is entitled to judgment as a matter of law. ***Id.***

Rutyna v. Schweers, 177 A.3d 927, 929 n.1 (Pa. Super. 2018).

The trial court's opinions, referenced above, provide a cogent analysis of the denials of Latzanich's discovery requests, as well as Sears' entitlement to summary judgment. Our review of this matter leads us to find the trial court has committed neither an abuse of discretion nor error of law

Order affirmed. Parties are directed to attach copies of the June 13, 2016; April 7, 2017; and October 24, 2017 trial court opinions in the event of further proceedings.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 6/27/18