

STATE OF MICHIGAN
COURT OF APPEALS

GREAT LAKES WINDOW, INC.,

UNPUBLISHED
February 17, 1998

Plaintiff/Counterdefendant-
Appellee,

v

No. 193672
Oakland Circuit Court
LC No 94-483357-CZ

THERMAL PLUS ENERGY SAVER, INC., BLUE
WATER DOORS AND WINDOW PLUS, INC.,
THERMAL SHIELD, FRED MEKLED, FRANK
HARLEY d/b/a HARLEY HOME
IMPROVEMENTS, CUSTOM VINYL
WINDOWS, JAMES CALVIN, III d/b/a
CONTRACTORS VINYL WINDOWS, J.W.S.
TECHNOLOGY, INC. d/b/a JOHN'S WEATHER
SEAL,

Defendants/Counterplaintiffs-
Appellants.

Before: McDonald, P.J., and Saad and Smolenski, JJ.

PER CURIAM.

Defendants appeal by leave granted from two circuit court orders which granted summary disposition pursuant to MCR 2.116(C)(8) in favor of plaintiff on defendants' counter-complaint, and denied defendants' motion for reconsideration. We reverse and remand.

Defendants first claim that the trial court erred in dismissing their counterclaim for breach of express and implied warranties contained in their second amended counterclaim (and denying their motion for reconsideration of that ruling). Defendants contend that the allegations in the counterclaim were sufficiently pleaded to give notice to plaintiff of the cause of action asserted. We agree.

MCR 2.111 provides that a counterclaim must contain “a statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend.” In Michigan, a complaint or counterclaim must provide reasonable notice to the opposing party of the allegations against which one must defend. See *Dacon v Transue*, 441 Mich 315, 329; 490 NW2d 369 (1992). Here, defendants’ second amended counterclaim was pleaded with sufficient specificity to place plaintiff on notice of the warranty claims it must defend, and the defects at issue. The details which plaintiff contends are lacking in the pleadings may be obtained through discovery.

Defendants also argue that the trial court erred in dismissing their breach of contract claims and denying their motion for reconsideration. We agree. Although defendants included a breach of contract claim in their initial counterclaim, the trial court found that it was insufficiently pleaded to withstand a motion for summary disposition; so defendants were permitted to amend to provide factual support for their allegations. However, in their second amended counterclaim, defendants altogether omitted the claim, and the trial court then denied their request to amend their pleadings for the third time. Although the pleadings failed to include the label “breach of contract,” this oversight caused no prejudice and is easily amended. The pleading itself provided adequate notice of defendant’s breach of contract theory.

Finally, defendants contend that the trial court abused its discretion in denying their motion to amend their pleadings to allow them an opportunity to more sufficiently plead the breach of warranty claim and to reallege the breach of contract claim. For the reasons already articulated, this issue is moot on appeal. The trial court’s grant of summary disposition pursuant to MCR 2.116(C)(8) is reversed.

Reversed and remanded. We do not retain jurisdiction.

/s/ Gary R. McDonald
/s/ Henry William Saad
/s/ Michael R. Smolenski