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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Hemp Seed Seller Can't Dodge Suit Over \$700K Deal

By **Sarah Jarvis**

Law360 (March 5, 2020, 2:34 PM EST) -- A North Carolina state appellate court has rejected a bid to dismiss a hemp producer's lawsuit over a \$700,000 seed deal gone bad, rejecting the seller's claim that the suit was filed in the wrong court.

Judge Christopher Brook wrote in an unpublished opinion on behalf of the appellate panel Tuesday that Nevada-based Industrial Hemp Manufacturing LLC was right to file its breach of contract suit against American Hemp Seed Genetic LLC, an Oregon company, in North Carolina.

Judge Brook said American Hemp waived any objection it may have had to personal jurisdiction because the April 2018 contract included a clause stating that any disputes would be resolved in Raleigh, North Carolina.

"Though this contract may have been entered into by the parties outside North Carolina, performance of obligations imposed by the contract on both parties substantially involves North Carolina," Judge Brook said, adding that Industrial Hemp shipped American Hemp's seeds to North Carolina and planted them there.

The companies entered into a contract in April 2018 stipulating that American Hemp would sell \$700,000 worth of high-quality hemp seeds to Industrial Hemp. The next month, Industrial Hemp said it received an initial shipment of 103 pounds of seed that had a germination rate of 24%, not the 97% rate American Hemp said its seeds had.

Industrial Hemp also said many of the seeds were dead and moldy. The company said that as of its October 2018 lawsuit, American Hemp failed to rectify the situation, causing at least \$70,000 in damages due to Industrial Hemp's down payment for the seeds.

Industrial Hemp's suit includes claims of breach of express and implied warranties, intentional misrepresentation or negligent misrepresentation in the alternative, incidental and consequential damages, unfair and deceptive trade practices and fraud, according to court documents.

American Hemp filed a motion to dismiss the suit in December 2018, claiming a lack of personal jurisdiction. A state trial court judge denied the motion in February 2019, according to the order.

The appellate court affirmed the trial court's opinion that the contract had a significant connection to North Carolina, where the seeds were to be planted and harvested and where American Hemp intended to receive some of the hemp biomass from Industrial Hemp's North Carolina plant.

Counsel for both parties did not immediately respond to requests for comment Thursday.

Judges John M. Tyson and Toby Hampson also sat on the panel.

Industrial Hemp is represented by Peyton D. Mansure, Todd A. Jones and Lindsey E. Powell of Anderson Jones PLLC.

American Hemp is represented by James R. Vann and Lindsey B. Revels of Vann Attorneys PLLC.

The case is Industrial Hemp Manufacturing LLC v. American Hemp Seed Genetic LLC, case number

COA19-679, in the Court of Appeals of North Carolina.

--Editing by Abbie Sarfo.

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