BizJet Can't Exit Suit Over 'Shoddy' Engine Repairs

Law360, Miami (February 27, 2017, 9:45 PM EST) — A Florida federal judge on Monday pared down a multimillion-dollar lawsuit accusing aircraft maintenance company BizJet of lying about its ability to service an aircraft engine on a corporate jet and performing "shoddy," life-endangering repairs, but left intact core contractual claims.

BizJet International Sales and Support Inc., a U.S.-based unit of aircraft maintenance company Lufthansa Technik AG, escaped claims for gross negligence and misrepresentation, but U.S. District Judge Kenneth A. Marra found that engineering consultant company Monsoon Inc., adequately pled its claims for breach of contract and breach of warranty and left open a door for the company to still prove negligence within those counts.

“It may be said that the 'essential purpose' of a contract is unfulfilled when repeated unsuccessful efforts to repair a product has completely failed in its intended purpose,” Judge Marra said. “The complaint alleges clearly that defendant failed to satisfy the essential purpose of the contract by performing defective workmanship and ultimately, seriously damaging the engines.”

Monsoon brought the suit in May in regard to required midlife maintenance on a Gulfstream G450 aircraft it had acquired for its then-CEO Jacqueline M. Ward, a leading businesswoman who traveled frequently as a member of the boards of several major corporations, including as chairman of the board of Sysco Corp.

Monsoon claimed BizJet was “grossly negligent” in performing the midlife inspection of the plane's Rolls Royce Tay 611-8C engines, which is required after 10 years of engine operation.

BizJet significantly overstated its capabilities and equipment and ended up charging far more than promised and taking longer than expected, according to Monsoon, which said it incurred significant additional expenses and saw the plane's value drop by $1.5 million as a result of the maintenance issues, according to Monday's order.

Errors in BizJet's repairs and inspections also allegedly put passengers' and crew members' lives at risk, according to the suit.

BizJet claimed the counts for breach of contract and breach of warranty claims must be dismissed because Monsoon failed to attach the contract or warranty to its complaint or plead with any degree of specificity about the terms and conditions it contends were broken.

But Marra said the first argument was resolved by BizJet when it attached the documents to its reply to the motion to dismiss. He also found that Monsoon met the requirements to claim breach of contract, alleging a

contract, a breach and damages.

“The complaint likewise is full of references to contractual provisions breached by defendant and how those breaches led to the failure of the agreement's essential purpose,” Judge Marra said.

BizJet was more successful with its arguments against Monsoon's counts for gross negligence, intentional misrepresentation/fraud and negligent misrepresentation, as the judge agreed with its argument that these tort claims are not independent of the breach of contract claims and are, therefore, barred by the economic loss rule.

Monsoon's damages request within its breach of contract claim is not limited by a cap in the contract excess of the amount of the invoice if it can show that gross negligence or willful misconduct took place.

Judge Marra also dismissed a count for punitive damages, which represented half of the requested $6 million in damages.

But the judge denied BizJet's motion to strike a description in the complaint of the Oklahoma-based company's own corporate troubles — which included its former CEO pleading guilty to attempting to bribe Latin American officials — saying he found the allegations relate to the disputed matter.

“We are very pleased the court upheld our core claims of gross negligence and that, as a result, we are not limited by any contractual limitations,” Monsoon's counsel, **Richard L. Robbins of Robbins Alloy Belinfante Littlefield LLC** told Law360. “Whether the case is in contract or tort, the proof and potential liability will be substantially same.

Robbins also expressed pleasure at being allowed to tell the “whole story” and said they will replead their request for attorneys' fees, which was knocked out, saying that is not an unusual requirement.

Counsel for BizJet did not immediately respond to a request for comment late Monday.

The plaintiffs are represented by Richard L. Robbins and **Jason S. Alloy of** Robbins Alloy Belinfante Littlefield LLC.

BizJet is represented by John Michael Murray and Nathan Michael Wheat of Murray Morin & Herman PA.

The case is Monsoon Inc., et al. v. BizJet International Sales & Support Inc., case number 9:16-cv-80722, in the U.S. District Court for the Southern District of Florida.