

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CNH INDUSTRIAL AMERICA LLC)	
)	
)	C.A. No. N12C-07-108 EMD CCLD
Plaintiff,)	
)	
v.)	
)	
AMERICAN CASUALTY COMPANY OF)	
READING, PENNSYLVANIA, et al.,)	
)	
Defendants.)	

Submitted: May 14, 2015
Decided: May 15, 2015

Upon Consideration of the Defendant The Travelers Indemnity Company’s Motion to Strike Affidavits Filed In Support of Plaintiff CNH’s Motion For Partial Summary Judgment Against Travelers Seeking Payment of Defense Costs and Statutory Interest
DENIED

Neal J. Levitsky, Esquire, and Seth A. Niederman, Esquire, Fox Rothschild LLP, Wilmington, Delaware and Richard L. McConnell, Esquire, and Dale E. Hausman, Esquire, Wiley Rein LLP, Washington, DC *Attorneys for The Travelers Indemnity Company.*

Brian M. Rostocki, Esquire, and John C. Cordrey, Esquire, Reed Smith LLP, Wilmington, Delaware *Attorneys for CNH Industrial America LLC.*

DAVIS, J.

This 15th date of May, 2015, upon consideration of the Defendant The Travelers Indemnity Company’s Motion to Strike Affidavits Filed In Support of Plaintiff CNH’s Motion For Partial Summary Judgment Against Travelers Seeking Payment of Defense Costs and Statutory Interest (the “Motion”); and Plaintiff’s Response in Opposition to Travelers’ Motion to

Strike Affidavits Filed in Support of Plaintiff's Motion for Partial Summary Judgment, the Court finds as follows:

1. CNH Industrial America LLC ("CNH") contends that the Supporting Affidavits attached to its Motion For Partial Summary Judgment Against Travelers Seeking Payment of Defense Costs and Statutory Interest are not offered to prove the truth of the matters asserted, but merely to summarize the affiant' review and analysis. As such, the Court will only consider the Supporting Affidavits for this purpose.

2. The Court does not find that paragraphs 3, 4 and 5 in Exhibits A, B and C to the Motion constitute impermissible legal opinions.

For the foregoing reasons the Motion is **DENIED**.

IT IS SO ORDERED.

/s/ *Eric M. Davis*

Eric M. Davis
Judge