

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Moreno Ortega v. Nissan North America, Inc.

Moreno Ortega · No. 1:22-cv-01581-ADA-EPG · Decided March 7, 2023

SUMMARY

The United States District Court for the Eastern District of California adopted in full the magistrate judge’s findings and recommendations concerning Defendant’s motion to dismiss. The court denied the motion as moot because Plaintiff had amended the complaint after the motion was filed and referred the case back to the magistrate judge for further proceedings.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 7, 2023
DOCKET	1:22-cv-01581-ADA-EPG
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations de novo after no party filed objections, adopted them in full, denied defendant's motion to dismiss as moot, and referred the case back to the magistrate judge for further proceedings.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1)(B) and Local Rule 304.
PRECEDENTIAL VALUE	Unknown
PARTIES	Carlos Emmanuel Moreno Ortega v. Nissan North America, Inc.

TOPICS

- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

- civil procedure
- federal courts

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted after de novo review when no party filed objections.
2. Whether defendant's motion to dismiss should be denied as moot because plaintiff amended the complaint after the motion was filed.

HOLDINGS

1. The findings and recommendations were supported by the record and proper analysis and were adopted in full after de novo review.
2. The motion to dismiss was denied as moot because plaintiff amended the complaint after the motion was filed, and the motion no longer targeted the operative pleading.

KEY QUOTATIONS

“Because the Defendants’ motion to dismiss targeted the Plaintiff’s First Amended Complaint, which was no longer in effect [after Plaintiff filed a Second Amended Complaint], we conclude that the motion to dismiss should have been deemed moot before the district court granted it.” (at 1)

FACTUAL BACKGROUND

Carlos Emmanuel Moreno Ortega brought California state-law claims against Nissan North America, Inc. arising from an allegedly defective vehicle. After Nissan filed a motion to dismiss, Ortega amended the complaint, rendering the challenged pleading no longer operative. No party objected to the magistrate judge's recommendation that the motion be denied as moot.

PROCEDURAL HISTORY

Plaintiff filed California state-law claims arising from an allegedly defective vehicle. Defendant filed a motion to dismiss, after which plaintiff amended the complaint. The magistrate judge recommended denying the motion as moot because it targeted a complaint that was no longer operative. The district court conducted de novo review, adopted the recommendation in full, denied the motion as moot, and referred the case for further proceedings.

DISPOSITION

other

REMAND INSTRUCTIONS

The case was referred back to the magistrate judge for further proceedings.

CASES CITED

- Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CARLOS EMMANUEL MORENO No. 1:22-cv-01581-ADA-EPG
ORTEGA, 12 ORDER ADOPTING FINDINGS AND Plaintiff, RECOMMENDATIONS IN
FULL 13 v. (ECF No. 11) 14 NISSAN NORTH AMERICA, INC., 15 Defendant. 16 17 On
December 9, 2022, Plaintiff Carlos Emmanuel Moreno Ortega (“Plaintiff”) filed this 18 action
bringing California state law claims arising from an allegedly defective vehicle.

(ECF No. 19 1.) The matter was referred to a United States Magistrate Judge pursuant to 28
U.S.C. § 20 636(b)(1)(B) and Local Rule 302. 21 On January 19, 2023, the assigned Magistrate
Judge entered findings and recommendations, 22 recommending that Defendant’s motion to
dismiss be denied as moot because Plaintiff amended 23 the complaint after the motion to dismiss
was filed.

(ECF No. 11); see Ramirez v. Cnty. of San 24 Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)
(“Because the Defendants’ motion to dismiss 25 targeted the Plaintiff’s First Amended Complaint,
which was no longer in effect [after Plaintiff filed 26 a Second Amended Complaint], we conclude
that the motion to dismiss should have been deemed 27 moot before the district court granted it.”).

28 /// 1 The findings and recommendations permitted the parties to file objections within fourteen
2 | days; however, no party has filed objections. 3 In accordance with the provisions of 28 U.S.C. §
636 (b)(1)(B) and Local Rule 304, this 4 | Court has conducted a de novo review of this case.

Having carefully reviewed the entire file, the 5 | Court finds the findings and recommendations to
be supported by the record and proper analysis. 6 Accordingly, 7 1. The findings and
recommendations issued on January 19, 2023, (ECF No. 11), are 8 ADOPTED IN FULL; 9 2.
Defendant’s motion to dismiss (ECF No. 6) is denied as moot; and 10 3. This case is referred back
to the Magistrate Judge for further proceedings.

11 12 IT IS SO ORDERED. 14 Dated: _ March 7, 2023 15 UNITED Ms fs JUDGE 16 17 18 19
20 21 22 23 24 25 26 27 28