

**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.

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which was no longer in effect [after Plaintiff filed 26 a Second Amended Complaint], we conclude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