

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Gunn v. FCA US, LLC

Gunn · No. 22-cv-02229-JD · Decided April 29, 2025

OPINION

Gunn v. FCA US, LLC

PER CURIAM.

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3 4 JAMES GUNN, et al., on behalf of Case No. 22-cv-02229-JD themselves and all others
similarly situated, 5 Plaintiffs, SECOND ORDER RE MOTION TO

6 DISMISS

v. 7

FCA US, LLC,

8 Defendant. 9

10 The Court dismissed plaintiffs’ original complaint in its entirety, with leave to amend. 11 Dkt.
No. 70. The grounds for dismissal were straightforward. Plaintiffs alleged that the 12 “destination
charges” disclosed in the familiar Monroney stickers on all new vehicles for sale did 13 not
disclose to consumers that the charges included a profit component in addition to actual 14
delivery costs. Id. at 2-3. The problem was that plaintiffs acknowledged that the Monroney 15
stickers plainly stated the destination charges in full, and that their claims were “not premised on a
16 misrepresentation, non-disclosure, or other act of deception.” Id. at 5. The Court concluded that
17 these concessions foreclosed the consumer claims alleged under California state law, and that
18 plaintiffs’ “public policy” arguments did not save the day for them. Id. at 6-8. The Court also
19 noted that another district court in a nearly identical case had determined that a reasonable 20
consumer “would not be surprised” that the destination charges included profit mark-ups, a 21
conclusion that our circuit affirmed in an unpublished disposition. Id. at 8-10 (citing Romoff v. 22
General Motors LLC, 574 F. Supp. 3d 782, 787-89 (S.D. Cal. 2021), aff’d, Case No. 22-55170, 23
2023 WL 1097258 (9th Cir. Jan. 30, 2023) (unpublished)). 24 Plaintiffs filed a first amended
complaint that more than doubled the length of the original 25 complaint. Dkt. No. 73 (FAC).
Much of the new material consisted of commentary about vehicle 26 pricing practices and
“phenomena” said to be found by “behavioral economists,” id. at ¶¶ 49 et 27 seq., and lengthy
recitations of congressional committee hearings and statements with respect to 1 the Monroney
stickers. Id. at ¶ 98 et seq.; see also Dkt. No. 70 at 2 (discussing the AIDA). 2 ¶ Plaintiffs attached
as an exhibit to the FAC roughly 80 pages of legislative material along the 3 same lines. See Dkt.

No. 73-1. 4 None of the new material, or the FAC as a whole, materially changed plaintiffs' theory of 5 || the case. The gravamen of the FAC is still that defendant FCA "deceives the car-buying public" 6 || by not stating that the destination charges are "marked up to include profit." Dkt. No. 73 at ¶ 5. 7 This is said to be the case because, even though the destination charge is plainly stated in full on a 8 Monroney sticker on every vehicle for sale, "[r]easonable consumers are not expected to know 9 that FCA's vehicle-delivery charges are marked up to include profit or that they should compare 10 || FCA's delivery charge against other manufacturers' charges." Id. 11 FCA urges dismissal of the FAC, Dkt. No. 76, with good reason. The FAC sings the same 12 song as the original complaint, just with more emphasis. The FAC does not plausibly allege a 5 13 claim for the reasons stated in the dismissal order, Dkt. No. 70, which is fully incorporated here 14 || and provides the applicable law and analysis. It is worth noting that since the Court's dismissal 3 15 || order, other courts have dismissed or terminated materially identical suits against FCA for similar a 16 || reasons. See, e.g., BCR Carpentry LLC vy. FCA US, LLC, 2024 WL 4570734 (D.N.J. Oct. 24, 3 17 || 2024); Beeney v. FCA US LLC, 2024 WL 3444488 (D. Del. July 17, 2024). 18 In the dismissal order, the Court advised plaintiffs that further amendment would likely not 19 || be granted. Dkt. No. 70 at 10. Plaintiffs have had a full and fair opportunity to state a plausible 20 || claim. Consequently, dismissal of the FAC is with prejudice, and the case is ordered closed. See 21 Louis D. Brandeis Ctr., Inc. v. Regents of Univ. of California, No. 23-cv-06133-JD, 2025 WL 22 || 974983, at *2 (N.D. Cal. Mar. 31, 2025). 23 IT IS SO ORDERED. 24 Dated: April 29, 2025 25 26

JAMES #ONATO

27 United fftates District Judge 28