## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

|  | C                       | CIVIL MINU                            | TES – GENER                         | $\mathbf{AL}$ | <b>'O'</b>                  |  |  |
|--|-------------------------|---------------------------------------|-------------------------------------|---------------|-----------------------------|--|--|
| Case No.                                   | 2:16-cv-06639-CAS(RAOx) |                                       |                                     | Date          | November 1, 2016            |  |  |
| Title                                      | YOSSI SABA              | OSSI SABAG v. FAC US, LLC; ET AL.     |                                     |               |                             |  |  |
|  |                         |                                       |                                     |               |                             |  |  |
|  |                         |                                       |                                     |               |                             |  |  |
| Present: The Honorable CHRISTINA A. SNYDER |                         |                                       |                                     |               |                             |  |  |
| Catherine Jeang                            |                         |                                       | Not Presen                          | N/A           |                             |  |  |
| Dep  | outy Clerk              | C                                     | ourt Reporter / R                   | r Tape No.    |                             |  |  |
| Attor                                      | neys Present for        | Plaintiffs:                           | Attorneys Present for Defendants:   |               |                             |  |  |
| Not Present                                |                         |                                       | Not Present                         |               |                             |  |  |
| Proceeding                                 | `                       | · · · · · · · · · · · · · · · · · · · | - PLAINTIFF Y<br>t. 13, filed Septe |               | SABAG'S MOTION<br>30, 2016) |  |  |

The Court finds this motion appropriate for decision without oral argument. See Fed. R. Civ. P. 78; C.D. Cal. Local Rule 7-15. Accordingly, the hearing date of November 1, 2016 is vacated, and the matter is hereby taken under submission.

## Ţ. INTRODUCTION

On August 1, 2016, plaintiff Yossi Sabag filed Los Angeles County Superior Court against defendants FCA US, LLC ("FCA") and Does 1-10, inclusive. Dkt 1-1 ("Compl."). The complaint alleged six causes of action: (1) violation of California Civil Code § 1793.2(d) arising from the failure to service or repair plaintiff's vehicle to conform to the applicable express warranties and the failure to promptly replace the vehicle or make restitution; (2) violation of California Civil Code § 1793.2(b) arising from the failure to service or repair plaintiff's vehicle so as to conform to the applicable warranties within 30 days; (3) violation of California Civil Code § 1793.2(a)(3) arising from the failure to make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period; (4) breach of express written warranty, pursuant to California Civil Code §§ 1791.2(a) and 1794; (5) breach of the implied warranty of merchantability, pursuant to California Civil Code §§ 1791.1(a) and 1794; and (6) violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3). Id.

On September 2, 2016, defendant FCA removed this action to this Court. Dkt. 1 ("Notice of Removal").

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On September 22, 2016, plaintiff filed his first amended complaint. Dkt. 8 ("FAC"). In the FAC, plaintiff includes as a defendant San Fernando Motor Company and no longer seeks to recover under the Magnuson-Moss Warranty Act. <u>Id.</u>

On September 30, 2016, plaintiff filed a motion to remand this action to California state court. Dkt. 13-1 ("Motion"). On October 17, FCA filed its opposition, dkt. 16 ("Opp'n"), and on October 24, 2016, plaintiff filed his reply, dkt. 17.

Plaintiff filed his FAC more than 21 days after filing his original complaint in state court. Therefore, he was not entitled to amend his pleading as a matter of course. See Fed. R. Civ. P. 15(a)(1). In addition, plaintiff failed to obtain leave to amend his complaint and failed to obtain leave to add a party. See Fed. R. Civ. P. 15(a)(2); 28 U.S.C. § 1447(e). Accordingly, the Court may not consider plaintiff's FAC. The Court therefore **DENIES** without prejudice plaintiff's motion to remand this action to California state court.

IT IS SO ORDERED.

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| Initials of Preparer | CMJ |     |    |