

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No.	CV 16-02157-BRO (SPx)	Date	December 9, 2016
Title	XIOMARA VEGA V. TARGET CORPORATION		

Present: The Honorable	BEVERLY REID O’CONNELL, United States District Judge		
Renee A. Fisher	Not Present	N/A	
Deputy Clerk	Court Reporter	Tape No.	
Attorneys Present for Petitioners:	Attorneys Present for Respondents:		
Not Present	Not Present		

Proceedings: (IN CHAMBERS)

**ORDER RE FAILURE TO OPPOSE
PLAINTIFF’S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT AND
TO REMAND ACTION TO STATE COURT [14]**

Pending before the Court is Plaintiff Xiomara Vega’s (“Plaintiff”) Motion for Leave to File an Amended Complaint and to Remand the Action to State Court. (Dkt. No. 14.) Plaintiff filed her Motion on November 8, 2016, noticing a hearing date of December 12, 2016. (*Id.*) Under this Court’s Local Rules, a party must oppose a motion (or file a notice of non-opposition) at least twenty-one (21) days prior to the scheduled hearing date. *See* C.D. Cal. L.R. 7-9.¹ Accordingly, Defendant Target Corporation’s (“Defendant”) Opposition was due no later than November 21, 2016. *See id.* Defendant filed to file a timely Opposition. Accordingly, on November 28, 2016, the Court issued an Order to Show Cause as to why the Court should not grant Plaintiff’s Motion, and requiring Defendant to file an Opposition, if any, by December 1, 2016. (Dkt. No. 15.) As of today’s date, Defendant has not responded to Plaintiff’s Motion. Pursuant to Local Rule 7-12, the failure to file an opposition “may be deemed consent to the granting . . . of the motion.” *See* C.D. Cal. L.R. 7-12. Therefore, the Court **GRANTS** Plaintiff’s Motion for Leave to File an Amended Complaint pursuant to Local Rule 7-12. *See id.*

Defendant initially removed this action under this Court’s diversity jurisdiction pursuant to 28 U.S.C. § 1332. (*See* Dkt. No. 1.) Under § 1332, the Court has federal subject matter jurisdiction so long as all plaintiffs are diverse from all defendants and the amount in controversy is, at minimum, \$75,000. *See* 28 U.S.C. § 1332(a). Along with

¹ A copy of this Court’s Local Civil Rules is available at the United States District Court, Central District of California’s website: <https://www.cacd.uscourts.gov/court-procedures/local-rules>.

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the instant Motion, Plaintiff filed a Proposed First Amended Complaint (“FAC”). (*See* Dkt. No. 14-1 (hereinafter, “FAC”).) The proposed FAC indicates that Plaintiff is a California resident and Defendant is a Minnesota corporation with its principal place of business also in Minnesota. (*See* FAC ¶¶ 1–2.) Plaintiff’s FAC includes an additional defendant, however, that was not included in Plaintiff’s Original Complaint: Amber Vodola, who is also a California resident. (FAC ¶ 3; *see also* Dkt. No. 1, Ex. A.) Therefore, as the Court grants Plaintiff’s Motion for Leave to Amend, this Court now lacks jurisdiction under § 1332, as all Defendants in this action are no longer diverse from Plaintiff. As such, the action must be remanded to the Superior Court of California, San Bernardino County.

Therefore, the Court **GRANTS** Plaintiff’s Motion for Leave to Amend pursuant to Rule 7-12 and **GRANTS** Plaintiff’s Motion to Remand. The hearing currently scheduled for Monday, December 12, 2016, is hereby **VACATED**.

IT IS SO ORDERED.

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Initials of Preparer

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