

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KIMBERLY JORDAN,

Plaintiff,

v.

FCA US LLC,

Defendant.

Case No. 1:19-cv-01527-AWI-SAB

ORDER REQUIRING PARTIES FILE
DISPOSITIONAL DOCUMENTS OR JOINT
STATEMENT RE SETTLEMENT

(ECF No. 21)

THIRTY DAY DEADLINE

On October 9, 2020, the District Judge vacated the trial date in this matter and ordered the parties to attend a settlement conference. (ECF No. 14.) On November 17, 2020, a settlement conference was held but the parties did not reach settlement. (ECF No. 17.) On July 9, 2021, counsel for Plaintiff filed an *ex parte* declaration proffering that on or about November 23, 2020, Plaintiff and Defendant agreed to a settlement amount in this case; that Plaintiff's counsel has followed up with Defendant's counsel at least a dozen separate times requesting a release; and thus given the Defendant does not appear "serious in resolving this matter," Plaintiff requests a pretrial conference and trial date be set. (ECF No. 19.) On July 14, 2021, the Court issued an order requiring the parties to submit a joint status report concerning Plaintiff's declaration, and for the joint statement to be filed with the understanding that if any party believes a settlement has been reached, the Court would be disinclined to set a trial date and would instead direct the party to file a motion to enforce settlement. (ECF No. 20.)

On July 16, 2021, the parties filed a joint statement. (ECF No. 21.) Plaintiff simply

1 restates the position taken in the previously filed declaration, and requests a trial date despite the
2 parties previously agreeing to a settlement amount. (See ECF Nos. 19, 21.) Defendant submits a
3 statement that it “agrees that a settlement has been reached on this matter on or about November
4 24, 2020,” but subsequently, “Defendant was notified by counsel for [Plaintiff’s] lender, that she
5 was in default of her loan, her vehicle was repossessed, and a lien would be issued after the sale
6 of the vehicle.” (ECF No. 21 at 2.) After the sale of the vehicle, a balance remains due, and
7 because Plaintiff refuses to hold Defendant harmless against the lienholder, Defendant’s counsel
8 has been working with Plaintiff’s attorney and the lienholder’s attorney to resolve all matters.
9 (Id.) Defendant proffers that it believes the parties can work to an agreement without a trial date,
10 and without further intervention from the Court. (Id.)

11 Pursuant to Local Rule: “When an action has been settled or otherwise resolved by
12 agreement of the parties . . . it is the duty of counsel to immediately file a notice of settlement or
13 resolution.” L.R. 160(a); see also L.R. 160(b) (“Upon such notification of disposition or
14 resolution of an action or motion, the Court shall fix a date upon which the documents disposing
15 of the action or motion must be filed, which date shall not be more than twenty-one (21) days
16 from the date of said notification, absent good cause.”) As the Court previously informed the
17 parties, if a party believes that a binding settlement has been reached, but the other side disagrees
18 or refuses to acknowledge a settlement or otherwise refuses to perform, then the appropriate
19 course is to file a motion to enforce settlement.

20 Based on the parties’ proffer that a settlement had been reached, and Defendant’s proffer
21 that the parties should be able to reach agreement without Court intervention, the Court shall
22 direct the parties to further meet and confer regarding finalizing the settlement, and file either
23 dispositional documents; a motion to enforce settlement; or a joint statement describing why the
24 settlement is not enforceable under the previously provided legal authorities, along with a joint
25 request to set a trial date, within thirty (30) days of entry of this order. If the parties require
26 additional time to confer with the nonparty lender’s counsel, the parties may submit a request
27 setting forth a proffer of good cause to extend the time to confer.

28 ///

1 Accordingly, IT IS HEREBY ORDERED that within thirty (30) days of entry of this
2 order, the parties shall file either: dispositional documents; a motion to enforce settlement; or a
3 joint statement describing why the settlement is not enforceable under the previously provided
4 legal authorities, along with a joint request to set a trial date.

5
6 IT IS SO ORDERED.

7 Dated: July 19, 2021


UNITED STATES MAGISTRATE JUDGE

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28