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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARLOS EMMANUEL MORENO
ORTEGA,

Plaintiff,

v.

NISSAN NORTH AMERICAN, INC.,

Defendant.

No. 1:22-cv-01581-ADA-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL

(ECF No. 28)

Plaintiff Carlos Emmanuel Moreno Ortega (“Plaintiff”) filed this civil action against Defendant Nissan North American Inc. (“Defendant”) alleging that Defendant fraudulently induced him to buy a vehicle containing various defects and thereafter failed to comply with its warranty obligations. (ECF No. 1.) On February 1, 2023, Defendant filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b). (ECF No. 12.) The matter was referred to the assigned Magistrate Judge on February 7, 2023, for the preparation of findings and recommendations and/or other appropriate action. (ECF No. 15.)

On May 18, 2023, the assigned Magistrate Judge issued findings and recommendations, recommending that the motion to dismiss filed by Defendant be granted in part, and denied in part. (ECF No. 28.) The findings and recommendations advised the parties that they could file objections

1 within fourteen days of service. (*Id.* 14-15.) To date, neither party has filed objections and the
2 time to do so has expired.

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 May 18, 2023, (ECF No. 28), are
8 ADOPTED IN FULL;
- 9 2. Defendant’s motion to dismiss, (ECF No. 12), is GRANTED to the extent that it
10 requests dismissal of Plaintiff’s fraud claim;
- 11 3. Plaintiff’s fraud claim is DISMISSED, with prejudice;
- 12 4. Defendant’s motion to dismiss, (ECF No. 12), is DENIED to the extent that it
13 requests dismissal of Plaintiff’s remaining claims—the Song-Beverly Act claims;
14 and
- 15 5. This matter is referred to the assigned Magistrate Judge for further proceedings.

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19 IT IS SO ORDERED.

20 Dated: July 20, 2023

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UNITED STATES DISTRICT JUDGE