

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SUZANNE BARE and MICHAEL  
NICKEL, on behalf of themselves  
and all others similarly situated,  
  
Plaintiff,  
  
v.  
  
SUBARU OF AMERICA, INC.,  
  
Defendant.

Case No.: 20cv1743-GPC(MDD)

**ORDER DIRECTING PLAINTIFF  
TO FILE A SUR-REPLY**

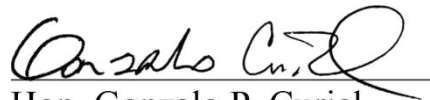
Before the Court is Defendant Subaru of America, Inc.’s (“Subaru”) motion to transfer the case to the District of New Jersey under the first-to-file rule which is fully briefed. (Dkt. Nos. 3, 9, 10.) In opposition, Plaintiffs primarily argue that the issues in the New Jersey class action are not substantially similar to this case because the New Jersey case only involved a nation-wide class and did not allege any California claims. (Dkt. No. 9.)

After Plaintiff’s opposition was filed, on November 5, 2020, the district court in New Jersey granted a stipulation allowing the filing of a second amended complaint to address issues raised by Subaru’s motion to dismiss and to add additional class representatives from several states, including California. (*Weston v. Subaru of America*,

1 *Inc.*, D.N.J., Case No. 20cv5876-RMB-JS, D.N.J., (Dkt. No. 47).) On November 24,  
2 2020, a second amended class action complaint was filed where a California sub-class  
3 was added as well as California state law causes of action. (*Id.*, Dkt. No. 50, SAC ¶ 167.)  
4 As such, it appears that many of Plaintiffs’ arguments are moot. Accordingly, the Court  
5 DIRECTS Plaintiffs to file a sur-reply to address their opposition to the motion to transfer  
6 taking into consideration the filing of the second amended complaint filed in the District  
7 of New Jersey on or before **December 7, 2020.**

8 IT IS SO ORDERED.

9 Dated: December 2, 2020

10   
11 Hon. Gonzalo P. Curiel  
12 United States District Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28