

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

JAMIE PAYNE & LEE PAYNE

CIVIL ACTION

VERSUS

NO: 15-176

BENCHMASTER FURNITURE, LLC

SECTION: "C" (3)

ORDER AND REASONS

Before the Court is a Motion to Dismiss Plaintiffs' Amended Complaint filed by defendant, BenchMaster Furniture, LLC. Rec. Doc. 18. BenchMaster seeks dismissal with prejudice of the claims plaintiff, Jaime and Lee Payne, brought under California law. Rec. Doc. 18-1. BenchMaster also argues that plaintiffs cannot maintain a nationwide class and that their warranty and fraud-based claims cannot be adjudicated on a class-wide basis. *Id.* Plaintiffs do not oppose the dismissal of the claims they raised under California law, but contend that defendant's other arguments are premature and should be adjudicated in connection with a motion to certify the class. Rec. Doc. 35. Accordingly,

IT IS HEREBY ORDERED that BenchMaster's Motion to Dismiss Plaintiffs' Amended Complaint (Rec. Doc. 18) is GRANTED AS UNOPPOSED as to plaintiffs' claims arising under California law, and those claims are DISMISSED WITH PREJUDICE. The motion is DENIED as to dismissal of plaintiffs' class allegations.

New Orleans, Louisiana, this 16th day of November, 2015.



**HELEN G. BERRIGAN
UNITED STATES DISTRICT JUDGE**