

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VINCENT DOLAN and CHRISTINE MAPES,
each individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

UNITED SERVICES AUTOMOBILE
ASSOCIATION,

Defendant.
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ORDER

21 CV 5813 (VB)

On January 7, 2022, defendant moved to dismiss the consolidated complaint. (Doc. #28).

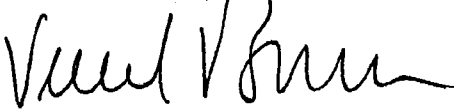
Accordingly, it is hereby ORDERED that, by no later than January 17, 2022, plaintiffs must notify the Court by letter whether plaintiffs (i) intend to file an amended consolidated complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If plaintiffs elect not to file an amended consolidated complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiffs a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendant's motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiffs elect to file an amended consolidated complaint, plaintiffs must file the amended consolidated complaint by no later than 14 days after notifying the Court of their intent to do so. Within 21 days of such amendment, defendant may either: (i) file an answer to the amended consolidated complaint; or (ii) file a motion to dismiss the amended consolidated complaint; or (iii) notify the Court by letter that defendant is relying on the initially filed motion to dismiss.

Dated: January 10, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

