

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JUDITH BROWN,

3:14-cv-01213-AC

Plaintiff,

ORDER

v.

BYRV, INC.; TIFFIN MOTOR HOMES,
INC.; and SENTRY SELECT
INSURANCE COMPANY,

Defendants.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#44) on May 27, 2015, in which he recommends the Court grant BYRV's Motion (#13) to Dismiss or, in the Alternative, to Stay Action in Favor of Mandatory Arbitration; Tiffin Motor Homes' Motion (#16) to Compel Arbitration; and Sentry Select's Motion (#20) to Dismiss or, in the alternative,

1 - ORDER

to stay the action pending the outcome of mandatory arbitration. Accordingly, the Magistrate Judge recommends the Court stay this action pending resolution of a joint arbitration proceeding to be held in Oregon.

Plaintiff filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

Plaintiff objects to that portion of the Findings and Recommendation in which the Magistrate Judge concludes (1) the Magnuson Moss Warranty Act does not preclude binding arbitration, (2) the issue as to whether BYRV's "punch list" constituted a warranty is not properly before this Court and should be considered by an arbitrator, and (3) Plaintiff consented to binding arbitration with Tiffin Motor Homes.

This Court has carefully considered Defendant's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the

Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#44) and, accordingly, **GRANTS** Defendants' Motions as follows:

1. The Court **GRANTS** BYRV's Motion (#13) to Dismiss or, in the Alternative, to Stay Action in Favor of Mandatory Arbitration as to BYRV's alternative Motion to stay this action;

2. The Court **GRANTS** Tiffin Motor Homes' Motion (#16) to Compel Arbitration, but **DENIES as moot** Tiffin's alternative Motion to Dismiss for Improper Venue; and

3. The Court **GRANTS** Sentry Select's Motion (#20) to Dismiss as to Sentry Select's alternative Motion to stay this action.

Accordingly, the Court **STAYS** this action pending resolution of the joint arbitration proceeding to be conducted in Oregon.

IT IS SO ORDERED.

DATED this 24th day of July, 2015.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge