

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHELLE A. KING, et al.,	:	CIVIL ACTION NO. 1:18-CV-450
	:	
Plaintiffs	:	(Chief Judge Conner)
	:	
v.	:	
	:	
HYUNDAI MOTOR	:	
MANUFACTURING AMERICA, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 5th day of February, 2019, upon consideration of the report (Doc. 20) of Magistrate Judge Karoline Mehalchick, recommending that the court grant in part and deny in part defendants’ partial motion (Doc. 14) to dismiss Counts IV, V, and VIII of the complaint filed by *pro se* plaintiffs Richelle A. King and Shawn M. King (“the Kings”) pursuant to Federal Rule of Civil Procedure 12(b)(6), and specifically that the court grant defendants’ motion to dismiss the Kings’ claims in Counts IV and V, respectively, for breach of implied warranty of fitness for a particular purpose and violation of Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (“UTPCPL”), but deny the motion to the extent it seeks dismissal of the Kings’ claim for punitive damages in Count VIII, and it appearing that neither the Kings nor any defendant has objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter

of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following independent review of the record, the court being in agreement with Judge Mehalchick’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby

ORDERED that:

1. The report (Doc. 20) of Magistrate Judge Mehalchick is ADOPTED.
2. Defendants’ partial motion (Doc. 14) to dismiss is GRANTED in part and DENIED in part as follows:
 - a. The motion (Doc. 14) is GRANTED to the extent that the Kings’ claims for breach of the implied warranty of fitness for a particular purpose (Count IV) and violation of the UTPCPL (Count V) are DISMISSED without prejudice.
 - b. The motion (Doc. 14) is DENIED in all other respects.
3. The Kings are granted leave to amend their pleading within twenty-one (21) days of the date of this order, consistent with this order and Magistrate Judge Mehalchick’s report.
4. Any amended pleading filed pursuant to paragraph 3 shall be filed to the same docket number as the instant action, shall be entitled “First Amended Complaint,” and shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the initial complaint. In the absence of a timely-filed amended complaint, the above-captioned action shall proceed on the Kings’ remaining claims as set forth in the initial complaint.

5. This matter is REMANDED to Magistrate Judge Mehalchick for further pretrial management.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania