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November 05, 2018

Via ECF

The Honorable Judge William H. Walls
United States District Court – District of New Jersey
50 Walnut Street
Newark, New Jersey

Re: Arkliss v. Nissan Extended Services North America, Inc.
Case Number: 2:18-cv-05681-WHW-CLW

To The Honorable U.S. Judge William H. Walls:

The undersigned, along with Posner Law, PLLC, represents the Plaintiff in the above captioned matter.

As Your Honor is aware, on August 16, 2018, Your Honor granted Defendants' Motion to Dismiss, and granted Plaintiff the right to seek leave to file an Amended Complaint. *See* ECF No. 34. Pursuant to said Order, on October 01, 2018, Plaintiff filed a Motion to Amend the Complaint. *See* ECF No. 35. On October 22, 2018, Defendant Nissan Extended Services North America, Inc. ("NESNA") filed a brief in opposition to Plaintiff's Motion. *See*, October 22, 2018. Said Motion has not yet been decided.

Plaintiff is writing Your Honor today requesting that their Motion to Amend be withdrawn, leaving Plaintiff to stand on their original Complaint. As such, and pursuant to Your Honor's August 16, 2018 Order, Plaintiff is further respectfully requesting that a final Order of dismissal be issued on Plaintiff's original filed Complaint. Courts in this Circuit have held that a Plaintiff can convert a dismissal with leave to amend into a final order, by electing to stand upon the original complaint. *See, e.g., Borelli v. City of Reading*, 532 F.2d 950, 951-52 (3d Cir. 1976) ("Only if the plaintiff . . . declares his intention to stand on his complaint . . . the order become[s] final and appealable").

Please feel free to contact the undersigned should Your Honor have any questions or concerns.

Respectfully submitted,

IT IS SO ORDERED:

S/ William H. Walls, USDJ

/s/ Ari H Marcus
Ari H. Marcus, Esq.
MARCUS & ZELMAN, LLC

U.S.D.J.

11/14/2018