IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

ROBIN SPENARD,

Plaintiff,

V.

CIVIL ACTION NO.

2:10cv1080-MHT

(WO)

DONALD BARTON, an

individual, and ANDALUSIA

BONDING COMPANY, LLC, a

limited liability

corporation,

Defendants.

OPINION

In this lawsuit, plaintiff Robin Spenard asserts the following claims against defendants Donald Barton and Andalusia Bonding Company, LLC: a Truth in Lending Act (TILA) (15 U.S.C. § 1601 et seq.) violation, breach of contract, unjust enrichment, deed reformation, misrepresentation of material facts, suppression, and deceit. Jurisdiction over the federal claim is based on

28 U.S.C. § 1331 and over the state claims on 28 U.S.C. § 1367.

During an on-the-record conference call on May 25, 2011, Spenard admitted that, on the current evidentiary record, Barton and Andalusia Bonding are due partial summary judgment because the court lacks jurisdiction over the TILA claim, with the result that the TILA claim should be dismissed without prejudice and the remaining state claims should be dismissed without prejudice and with leave to refile in state court, within 30 days, pursuant to 28 U.S.C. § 1367(d). The parties further agreed that the case could be reinstated if Barton or Andalusia Bonding engaged in an additional mortgage that would satisfy jurisdiction under TILA.

An appropriate judgment will be entered.

DONE, this the 26th day of May, 2011.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE