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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Steven J. Colucci and Alison M. Fry,

No. CV10-2066-PHX-DGC

10 Plaintiffs,

ORDER

11 vs.

12 Suntrust Mortgage, Inc., a California
13 corporation; et al.,

14 Defendants.
15

16 On August 18, 2010, Plaintiffs filed an action in the Arizona Superior Court for
17 Maricopa County against SunTrust Mortgage, Inc. (“SunTrust”) alleging violations of
18 federal and Arizona laws. Doc. 1-1. Although SunTrust was not served with process
19 (Doc. 1 at 2:7), it removed the action to this Court on September 27, 2010 on the basis of
20 federal-question and diversity jurisdiction (*id.* at 2:20, 3:5). SunTrust subsequently filed
21 an answer (Doc. 7), the Court held a case management conference (Doc. 11), and
22 Plaintiffs filed an amended complaint on February 1, 2011 (Doc. 13).

23 On July 20, 2011, the Court entered an order dismissing the case without prejudice
24 as to Defendants SunTrust and Mortgage Electronic Registration Systems, Inc.
25 (“MERS”) on joint stipulation by the parties. Doc. 45. The joint stipulation states that
26 Plaintiffs dismiss without prejudice “all claims against Defendants SunTrust Mortgage,
27 Inc. and Mortgage Electronic Registration Systems.” Doc. 44 at 1:24-26. Some of the
28 claims pled in the amended complaint against SunTrust or MERS also name as parties

1 one or more of the following: Branch Banking & Trust (“BBT”), TSA Title Agency
2 (“TSA”), and MAX Default Services Corp. (“MAX”). Doc. 13. Plaintiffs have now
3 confirmed that their dismissal of MERS and SunTrust leaves intact the claims against
4 BBT, TSA, and MAX. Doc. 47.

5 A motion to dismiss under Rule 12(b)(6) has been filed by BBT (Doc. 28), and the
6 motion is joined by TSA and MAX (Docs. 32, 38). BBT argues in part that Plaintiffs’
7 claims are barred by Arizona statute A.R.S. § 33-811(C). Doc. 28 at 4. Plaintiffs oppose
8 (Doc. 33), and BBT filed a reply (Doc. 39). The parties do not request oral argument.

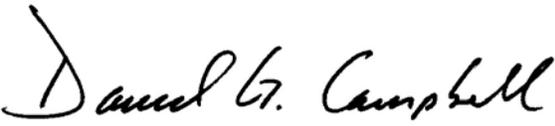
9 The amended complaint alleges only claims under Arizona law (Doc. 13), thereby
10 eliminating federal-question jurisdiction. The amended complaint also pleads claims
11 against TSA, which is alleged to be an Arizona corporation (*id.* at ¶ 5) – an allegation
12 TSA admits in its answer (Doc. 30 at 2:5). The lack of complete diversity eliminates this
13 Court’s diversity jurisdiction. 28 U.S.C. § 1332.

14 With federal-question and diversity jurisdiction no longer available, the Court
15 concludes this case should be remanded to state court. *See Carnegie-Mellon Univ. v.*
16 *Cohill*, 484 U.S. 343, 350 n.7 (1988) (“[I]n the usual case in which all federal-law claims
17 are eliminated before trial, the balance of factors . . . will point toward declining to
18 exercise jurisdiction over the remaining state-law claims.” (citing *United Mine Workers*
19 *of Am. v. Gibbs*, 383 U.S. 715, 726 (1966))). Resolution of the remaining state-law
20 claims will require application of Arizona law. Because Arizona state courts have a
21 greater interest and expertise in resolving state-law issues, remanding this case will
22 further principles of comity. Additionally, remand will benefit the federal system by
23 allowing this Court to devote its scarce resources to resolving federal issues.

24 Because the Court is remanding this case to state court, it will leave the pending
25 motion to dismiss to be decided by the state court.

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IT IS ORDERED that this case is remanded to Maricopa County Superior Court.
Dated this 10th day of August, 2011.



David G. Campbell
United States District Judge