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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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CESAR CASTANEDA and SUZZANNE  
CASTANEDA,

NO. CIV. 2:09-1124 WBS KJN

Plaintiffs,

ORDER RE: MOTIONS TO DISMISS

v.

SAXON MORTGAGE SERVICES, INC.;  
NOVASTAR MORTGAGE, INC.;  
QUALITY LOAN SERVICE CORP.;  
SYNERGY FINANCIAL MANAGEMENT  
dba DIRECT LENDER; THE BANK OF  
NEW YORK MELLON, AS SUCCESSOR  
TRUSTEE UNDER NOVASTAR  
MORTGAGE FUNDING TRUST 2005-2  
BY SAXON; MORTGAGE SERVICES,  
INC.; LOUIS LEON PACIFIC;  
MICHAEL TIMOSHUCK; IVETTE  
CAMPOS; and DOES 1-20,  
inclusive,

Defendants.

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Plaintiffs Cesar and Suzanne Castaneda filed this  
action against defendants Saxon Mortgage Services, Inc.  
("Saxon"), Novastar Mortgage, Inc. ("Novastar"), Quality Loan

1 Service Corp. ("Quality Loan"), Synergy Financial Management,  
2 d/b/a Direct Lender ("Synergy"), The New York Bank of Mellon, as  
3 successor Trustee under Novastar Mortgage Funding Trust 2005-2 by  
4 Saxon ("Mellon"), Louis Leon Pacific, Michael Timoshuck, and  
5 Ivette Campos, alleging various state and federal claims relating  
6 to a loan they obtained to refinance their home in Sacramento,  
7 California. (Docket No. 2.) Plaintiffs asserted that the basis  
8 of this court's jurisdiction over the action was federal question  
9 jurisdiction, predicated on their claims for violations of the  
10 Truth In Lending Act ("TILA"), 15 U.S.C. §§ 1601-1667f, and the  
11 Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. §§  
12 2601-2617. (Docket No. 2.)

13           After the court granted two motions to dismiss  
14 plaintiffs' complaint with leave to amend, (Docket Nos. 47, 66),  
15 plaintiffs filed a Third Amended Complaint ("TAC") on March 17,  
16 2010, which no longer contains any federal causes of action.  
17 (Docket No. 69.) Plaintiffs do not oppose defendants Novastar  
18 and Saxon and Mellon's motions to dismiss without prejudice on  
19 the grounds that the court should decline to exercise  
20 supplemental jurisdiction over plaintiffs' pendant state law  
21 claims. (See 72, 79.) The defendants, however, ask the court to  
22 retain supplemental jurisdiction over plaintiffs' state law  
23 claims and dismiss plaintiff's TAC with prejudice. (See Docket  
24 Nos. 71, 73.)

25           Under 28 U.S.C. § 1367(c) (3), a district court may  
26 decline to exercise supplemental jurisdiction over a state law  
27 claim if "the district court has dismissed all claims over which  
28 it has original jurisdiction . . . ." 28 U.S.C. § 1367(c)(3);

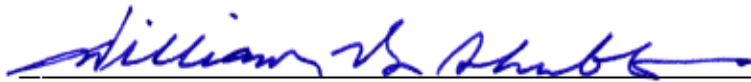
1 see also Acri v. Varian Assocs., Inc., 114 F.3d 999, 1000 (9th  
2 Cir. 1997) (“[A] federal district court with power to hear state  
3 law claims has discretion to keep, or decline to keep, them under  
4 the conditions set out in § 1367(c).”). Factors for a court to  
5 consider in deciding whether to dismiss supplemental state claims  
6 include judicial economy, convenience, fairness, and comity.  
7 Imagineering, Inc. v. Kiewit Pac. Co., 976 F.2d 1303, 1309 (9th  
8 Cir. 1992). “[I]n the usual case in which federal law claims are  
9 eliminated before trial, the balance of factors . . . will point  
10 toward declining to exercise jurisdiction over the remaining  
11 state law claims.” Reynolds v. County of San Diego, 84 F.3d  
12 1162, 1171 (9th Cir. 1996) overruled on other grounds by Acri,  
13 114 F.3d at 1000.

14           While it has been over a year since plaintiffs filed  
15 their original Complaint in federal court, the case has yet to  
16 progress beyond the motion to dismiss stage. As none of the  
17 parties have posed any extraordinary or unusual circumstances  
18 that would counsel against dismissal, the court will decline to  
19 exercise supplemental jurisdiction under § 1367(c)(3) as to the  
20 TAC’s state law claims.

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1           IT IS THEREFORE ORDERED that plaintiff's Third Amended  
2 Complaint be, and the same hereby is, DISMISSED without  
3 prejudice.<sup>1</sup>

4 DATED: June 3, 2010

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7 WILLIAM B. SHUBB  
8 UNITED STATES DISTRICT JUDGE  
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28 <sup>1</sup> Defendants' motions to dismiss are therefore denied as moot.