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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM BARDIN, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
COUNTRYWIDE HOMELOANS, INC., BAC )  
HOME LOANS SERVICING, LP, A )  
SUBSIDIARY OF BANK OF AMERICA, )  
N.A.; AMERICAHOMEKEY; MORTGAGE )  
ELECTRONIC REGISTRATION SYSTEMS, )  
INC.; US FUNDING GROUP, INC.; JOHN )  
MORRIS and DOES 1-20, inclusive )  
 )  
Defendants. )  
\_\_\_\_\_ )

2:09-cv-01593-GEB-KJM  
ORDER DECLINING TO EXERCISE  
SUPPLEMENTAL JURISDICTION OVER  
PLAINTIFF'S STATE LAW CLAIMS\*

On October 13, 2009, Defendants Countrywide Home Loans, Inc. ("CHL"), Mortgage Electronic Registration Systems, Inc. ("MERS") and BAC Home Loan Servicing, LP ("BAC Servicing") (collectively, "Defendants") filed a motion under Federal Rule of Civil Procedure 12(b)(6) in which they seek dismissal of Plaintiff's first amended complaint. Defendants also move under Federal Rule of Civil Procedure 12(f) to strike Plaintiff's request for punitive damages. Plaintiff

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\* This matter is deemed to be suitable for decision without oral argument. E.D. Cal. R. 230(g).

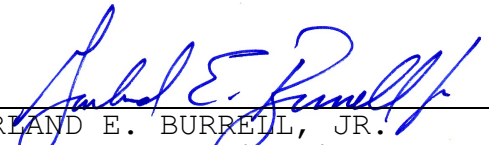
1 alleges in his first amended complaint nine claims under state and  
2 federal law against six defendants concerning a mortgage loan  
3 transaction involving property located at 4525 McDonald Drive, in  
4 Sacramento, California. (First Amended Compl. "FAC" ¶ 6.)

5 Subject matter jurisdiction is premised upon the existence  
6 of federal questions, however, the federal claims have been dismissed.  
7 (FAC ¶ 1.) Plaintiff had alleged federal claims under two different  
8 federal acts in his first amended complaint: the Truth in Lending Act  
9 ("TILA") and the Real Estate Settlement Procedures Act ("RESPA").  
10 Plaintiff's TILA claims were alleged against Americahomekey, but those  
11 claims and Americahomekey were dismissed from this action through an  
12 order filed on February 1, 2010, which issued in accordance with the  
13 stipulated dismissal Plaintiff and Americahomekey filed on January 19,  
14 2010. Plaintiff's amended complaint also alleged a RESPA claim  
15 against CHL; however, in his opposition brief to the pending motion  
16 Plaintiff "dismiss[es], without prejudice" his RESPA claim against the  
17 "Moving Defendants." (Opp'n 15:2-3.) Therefore, only Plaintiff's  
18 state claims remain.

19 Under 28 U.S.C. § 1367(c)(3), a district court "may decline  
20 to exercise supplemental jurisdiction over a [state] claim" if "the  
21 district court has dismissed all claims over which it has original  
22 jurisdiction . . . ." "While discretion to decline . . . supplemental  
23 jurisdiction over state law claims is triggered by the presence of one  
24 of the conditions in § 1367(c), it is informed by the . . . values of  
25 economy, convenience, fairness and comity" as delineated by the  
26 Supreme Court in United Mine Workers of Am. v. Gibbs, 383 U.S. 715,  
27 726 (1966). Acri v. Varian Associates, Inc., 114 F.3d 999, 1001 (9th  
28 Cir. 1997) (en banc). "Since state courts have the primary

1 responsibility to develop and apply state law, . . . the Gibbs values  
2 do not favor continued exercise of supplemental jurisdiction over  
3 Plaintiff's state claims . . . ." Anderson v. Countrywide Financial,  
4 No. 2:08-cv-01220-GEB-GGH, 2009 WL 3368444, at \*5 (E.D. Cal. Oct. 19,  
5 2009); see also Wade v. Regional Credit Ass'n, 87 F.3d 1098, 1101 (9th  
6 Cir. 1996) (stating that "where a district court dismisses a federal  
7 claim, leaving only state claims for resolution, it should decline  
8 jurisdiction over the state claims and dismiss them without  
9 prejudice"). Accordingly, Plaintiff's state claims are dismissed  
10 without prejudice under 28 U.S.C. § 1367(c) (3) and this case shall be  
11 closed.

12 Dated: February 1, 2010

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16 GARLAND E. BURRELL, JR.  
17 United States District Judge  
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