

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

SHERRI KEMP,

Plaintiff,

v.

AMERICAN HOME MORTGAGE SERVICING,
INC., OPTION ONE MORTGAGE
CORPORATION, H & R BLOCK MORTGAGE
CORPORATION, HOWARD RUDOLPH and
KATHI ALDRIDGE,

Defendants.

2:09-cv-01661-GEB-DAD

ORDER DECLINING SUPPLEMENTAL
JURISDICTION OVER PLAINTIFF'S
STATE LAW CLAIMS*

Defendants Sand Canyon Corporation f/k/a Option One Mortgage Corporation, H & R Block Mortgage Corporation, Howard Rudolph and Kathi Aldridge filed a motion to dismiss Plaintiff's second amended complaint for lack of subject matter jurisdiction. Plaintiff's second amended complaint alleges seven claims under California law.

Plaintiff filed an opposition in which she states:

Plaintiff requests the Court take notice that her Second Amended Complaint, the operative pleading, contains no federal causes of action. The remaining causes of action are

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

1 all state claims. Therefore, this court may
2 decline to exercise supplemental jurisdiction
3 over state law claims To avoid
4 unnecessary usurpation of the Court's time and
resources, as well as those of the parties,
Plaintiff has no objection to the Court's
dismissal without prejudice of this matter.

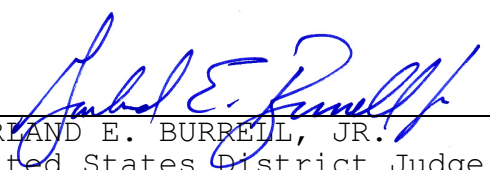
5 (Pl.'s Opp'n 3:3-14.)

6 Plaintiff's earlier complaints included federal claims, and
7 jurisdiction over those claims was based on the existence of federal
8 questions. Since the federal claims have been eliminated from
9 Plaintiff's second amended complaint, the Court decides whether it
10 should continue exercising supplemental jurisdiction over Plaintiff's
11 state law claims. Under 28 U.S.C. § 1367(c)(3), a district court "may
12 decline to exercise supplemental jurisdiction over a [state law]
13 claim" when "all claims over which it has original jurisdiction" have
14 been dismissed. This decision should be informed by the values of
15 economy, convenience, fairness and comity as delineated by the Supreme
16 Court in United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 726
17 (1996). Acri v. Varian Associates, Inc., 114 F.3d 999, 1001 (9th Cir.
18 1997) (en banc).

19 Comity weighs in favor of not exercising jurisdiction since
20 state courts have the primary responsibility for developing and
21 applying state law. See Acri, 114 F.3d at 1001 (stating that "in the
22 usual case in which all federal-law claims are eliminated before
23 trial, the balance of factors will point towards declining to exercise
24 jurisdiction over the remaining state-law claims" (quotations and
25 citation omitted)); Curiel v. Barclays Capital Real Estate Inc., No.
26 S-09-3074 FCD/KJM, 2010 WL 729499, at *1 (E.D. Cal. Mar. 2, 2010)
27 (stating "primary responsibility for developing and applying state law
28 rests with the state courts" and declining to exercise supplemental

1 jurisdiction after dismissal of the federal claims). Further, none of
2 the remaining Gibbs factors favor retaining jurisdiction in this case.
3 Therefore, the court declines to exercise supplemental jurisdiction
4 over Plaintiff's state law claims and those claims are dismissed
5 without prejudice under 28 U.S.C. § 1367(c)(3). Accordingly, this
6 action shall be closed.

7 Dated: May 6, 2010

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11 GARLAND E. BURRELL, JR.
12 United States District Judge
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