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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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DMITRIY LANIN,

Civ. No. S-09-2461 FCD/DAD

Plaintiff,

v.

MEMORANDUM AND ORDER

WELLS FARGO BANK NA; MARIN  
CONVEYANCING CORPORATION;  
GREENPOINT MORTGAGE FUNDING,  
INC.; CAPITAL ONE, N.A.; and  
DOES 1-50,

Defendants.

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This matter is before the court on the motions of defendants Wells Fargo Bank, N.A., Greenpoint Mortgage Funding, Inc., Marin Conveyancing Corporation, and Capital One, N.A. to dismiss plaintiff Dmitriy Lanin's ("plaintiff") second amended complaint pursuant to Federal Rule of Civil Procedure ("FRCP") 12(b)(6).

Jurisdiction is a threshold inquiry before the adjudication of any case before the court. See Morongo Band of Mission Indians v. Cal. State Bd. of Equalization, 858 F.2d 1376, 1380

1 (9th Cir. 1988). Without jurisdiction, this court cannot  
2 adjudicate the merits of this case or order any relief. See id.  
3 ("If the district court had no jurisdiction over the subject  
4 matter, the action should have been dismissed, regardless of the  
5 parties' preference for an adjudication in federal court.").

6 Plaintiff's original complaint, filed in the Superior Court  
7 for the State of California in and for the County of Placer,  
8 alleged claims under both state and federal law. Greenpoint  
9 Mortgage Funding, Inc. removed the case on September 1, 2009 on  
10 the basis of federal question jurisdiction. On February 19,  
11 2010, the court granted defendants' motion to dismiss with leave  
12 to amend certain claims.

13 However, plaintiffs filed a second amended complaint on  
14 March 15, 2010, which is devoid of any federal claims.  
15 Specifically, plaintiff's first amended complaint alleges claims  
16 for (1) negligence; (2) declaratory relief; (3) breach of  
17 contract; (4) unfair business practices in violation of  
18 California Business & Professions Code § 17200 et seq.; (5)  
19 unjust enrichment; (6) accounting; (7) promissory estoppel; (8)  
20 misrepresentation; (9) breach of fiduciary duties; (10)  
21 unconscionability; (11) cancellation of void instrument; (12)  
22 recession/cancellation (sic); (13) slander of title; (14) deceit;  
23 (15) violation of Civil Code §§ 1916.17 and 1921; and (16)  
24 violation of Civil Code § 1572.

25 Subject to the conditions set forth in 28 U.S.C. § 1367(c),  
26 district courts may decline to exercise supplemental jurisdiction  
27 over state law claims. See Acri v. Varian Associates, Inc., 114  
28 F.3d 999, 1000 (9th Cir. 1997)(en banc). The court's decision

1 whether to exercise supplemental jurisdiction should be informed  
2 by values of "economy, convenience, fairness, and comity." Id.  
3 at 1001 (citations omitted). Further, primary responsibility for  
4 developing and applying state law rests with the state courts.  
5 Therefore, when federal claims are eliminated before trial,  
6 district courts should usually decline to exercise supplemental  
7 jurisdiction. See Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343,  
8 350 (1988); Gini v. Las Vegas Metropolitan Police Dept., 40 F.3d  
9 1041, 1046 (9th Cir. 1994) ("[I]n the usual case in which  
10 federal-law claims are eliminated before trial, the balance of  
11 factors . . . will point toward declining to exercise  
12 jurisdiction over the remaining state law claims.") (quoting  
13 Schneider v. TRW Inc., 938 F.2d 986, 993 (9th Cir. 1991)). In  
14 accordance with 28 U.S.C. § 1367(c), the court declines to  
15 exercise supplemental jurisdiction over plaintiff's state law  
16 claims.<sup>1</sup>

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18 <sup>1</sup> While plaintiff's Second Amended Complaint references  
19 the Truth in Lending Act, the Equal Credit Opportunity Act, and  
20 Real Estate Settlement Procedures Act, such reference is  
21 insufficient to confer federal jurisdiction. Federal  
22 jurisdiction may lie if "it appears that some substantial  
23 disputed question of federal law is a necessary element of one of  
24 the well-pleaded state claims." Rains v. Criterion Sys., Inc.,  
25 80 F.3d 339, 345 (9th Cir. 1996) (quoting Franchise Tax Bd. of  
26 California v. Construction Laborers Vacation Trust for Southern  
27 California, 463 U.S. 1, 13 (1983). However, "[w]hen a claim can  
28 be supported by alternative and independent theories - one of  
which is a state law theory and one of which is a federal law  
theory - federal question jurisdiction does not attach because  
federal law is not a necessary element of the claim." Id.  
(holding that the plaintiff's wrongful discharge claim did not  
give rise to federal question jurisdiction because it could be  
supported by violations of the state law constitution, not only  
violations of a federal statute); Lippit v. Raymond James Fin.  
Servs., Inc., 340 F.3d 1033, 1043 (9th Cir. 2003) (holding that  
California unfair competition law claims did not give rise to  
federal question jurisdiction because such claims are based on  
unfair or fraudulent conduct generally, and not necessarily

1           Accordingly, plaintiff's complaint is REMANDED to the  
2 Superior Court of the State of California for the County of  
3 Placer.

4           IT IS SO ORDERED.

5 DATED: May 21, 2010



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6 FRANK C. DAMRELL, JR.  
7 UNITED STATES DISTRICT JUDGE  
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26 violations of federal rules and regulations); Mulcahey v.  
27 Columbia Organic Chemicals, 29 F.3d 148. 153 (4th Cir. 1994). In  
28 this case, none of plaintiffs' claims rely solely on violations  
of federal law. (See Pl.'s Second Am. Compl., filed Mar. 15,  
2010, ¶ 53) (basing unfair business practices claim on failure to  
make disclosures required by *California* and federal laws).