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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

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11 OKSANA KOPCHUK,

12 NO. CIV. S-09-2681 FCD/GGH

13 Plaintiff,

14 v.

MEMORANDUM AND ORDER

15 YELENA TELEGA d/b/a CALIFORNIA  
16 ALTERNATIVE REAL ESTATE &  
17 MORTGAGE COMPANY, INC.; CHL  
18 HOME LOANS, INC. d/b/a  
19 AMERICA'S WHOLESALE LENDER;  
20 MORTGAGE ELECTRONIC  
21 REGISTRATION SYSTEM; et al.,

22 Defendants.

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24 This matter is before the court on defendants' motion to  
25 dismiss plaintiff's second amended complaint ("SAC") pursuant to  
26 Federal Rule of Civil Procedure 12(b)(6).<sup>1</sup> (Docket #25.) By  
27 memorandum and order of March 15, 2010, the court permitted  
28 plaintiff leave to amend her first amended complaint with respect  
to certain claims for relief, including her federal claims for

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<sup>1</sup> Because oral argument will not be of material assistance, the court orders this matter submitted on the briefs. E.D. Cal. L.R. 230(g).

1 relief under the Truth in Lending Act ("TILA"), the Real Estate  
2 Settlement Procedures Act ("RESPA") and the Fair Debt Collection  
3 Practices Act ("FDCPA"). (Docket #19 at 7-10, 16-17.) On April  
4 8, 2010, plaintiff filed a SAC which asserts only state law  
5 causes of action for fraud, breach of fiduciary duty, breach of  
6 the covenant of good faith and fair dealing, civil conspiracy,  
7 violation of California Civil Code § 2923.5, violation of  
8 California Business & Professions Code § 17200, unjust  
9 enrichment, unconscionability, slander of title, and declaratory  
10 and injunctive relief. (Docket #22.)

11 Plaintiff's voluntary dismissal of her TILA, RESPA and FDCPA  
12 claims for relief leaves the complaint devoid of any federal  
13 claims. Subject to the conditions set forth in 28 U.S.C.  
14 § 1367(c), district courts may decline to exercise supplemental  
15 jurisdiction over state law claims. See Acri v. Varian Assoc.,  
16 Inc., 114 F.3d 999, 1000 (9th Cir. 1997) (en banc). The court's  
17 decision whether to exercise supplemental jurisdiction should be  
18 informed by values of "economy, convenience, fairness, and  
19 comity." Id. at 1001 (citations omitted). Further, primary  
20 responsibility for developing and applying state law rests with  
21 the state courts. Therefore, when federal claims are eliminated  
22 before trial, district courts should usually decline to exercise  
23 supplemental jurisdiction. See Carnegie-Mellon Univ. v. Cohill,  
24 484 U.S. 343, 350 (1988); Gini v. Las Vegas Metropolitan Police  
25 Dept., 40 F.3d 1041, 1046 (9th Cir. 1994) ("In the usual case in  
26 which federal-law claims are eliminated before trial, the balance  
27 of factors . . . will point toward declining to exercise  
28 jurisdiction over the remaining state law claims.") (quoting

1 Schneider v. TRW Inc., 938 F.2d 986, 993 (9th Cir. 1991)). In  
2 accordance with Section 1367(c), the court declines to exercise  
3 supplemental jurisdiction over plaintiff's remaining state law  
4 claims.

5 Accordingly, the court HEREBY REMANDS the case, originally  
6 removed to this court by defendants on the basis of federal  
7 question jurisdiction (Notice of Removal, filed Sept. 25, 2009),  
8 to the Sacramento County Superior Court.

9 IT IS SO ORDERED.

10 DATED: July 22, 2010



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13 FRANK C. DAMRELL, JR.  
14 UNITED STATES DISTRICT JUDGE  
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