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

HENRY LIEW and KELLY LIEW,  
  
Plaintiffs,

Case No. 09-CV-3030-JAM-KJM  
  
ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS

v.

CENTRAL MORTGAGE COMPANY; PAUL  
FINANCIAL, LLC; MTC FINANCIAL,  
INC. dba TRUSTEE CORPS; MERS,  
INC.; COMMUNITY RESIDENTIAL  
MORTGAGE; JEANNE CRAIN PAVAO;  
and STEVEN HART BLANEY,

Defendants.

\_\_\_\_\_ /

This matter comes before the Court on Defendants' Central Mortgage Company and Mortgage Electronic Registration Systems' ("Defendant's") Motion to Dismiss Plaintiffs Henry and Kelly Liew's ("Plaintiffs'") First Amended Complaint ("FAC") for failure to state a claim pursuant to Federal Rule of Civil

1 Procedure 12(b)(6). Plaintiffs do not oppose the motion.<sup>1</sup> The  
2 Court takes judicial notice as requested by Defendants.

3         This case arises from a residential mortgage transaction  
4 and foreclosure of Plaintiffs' property located at 4946 Ridge  
5 Field Circle, Fairfield, California. Plaintiffs' FAC alleges  
6 federal claims for violation of the Truth in Lending Act  
7 ("TILA") and the Real Estate Settlement Procedures Act  
8 ("RESPA"), and several state causes of action.

9         In response to Defendants' Motion to Dismiss, Plaintiffs  
10 filed a Notice of Non-Opposition. The Notice of Non-Opposition  
11 states that Plaintiffs have no opposition to dismissal of the  
12 two federal TILA and RESPA claims. Accordingly, the Court  
13 dismisses both of these claims, with prejudice.

14         The Notice of Non-Opposition also requests that the Court  
15 dismiss the remaining state law claims without prejudice, or in  
16 the alternative grant Plaintiffs leave to file a second amended  
17 complaint which removes the federal claims. Plaintiffs argue  
18 that because they have no opposition to the dismissal of their  
19 federal claims, and there are no allegations of diversity by  
20 either party, the Court lacks jurisdiction to decide the  
21 remaining state claims once it has dismissed the federal claims.

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28 <sup>1</sup> This motion was determined to be suitable for decision without  
oral argument. E.D. Cal. L.R. 230(g).

1 "Subject to the conditions set forth in 28 U.S.C. §1367(c),  
2 district courts may decline to exercise supplemental  
3 jurisdiction over state law claims... In the usual case in which  
4 federal law claims are eliminated before trial, the balance of  
5 factors will point toward declining to exercise jurisdiction  
6 over the remaining state law claims." Keen v. American Home  
7 Mortgage Servicing, Inc., 2010 WL 624306 , at \*1 (E.D. Cal. Feb.  
8 18, 2010)(internal citations omitted).

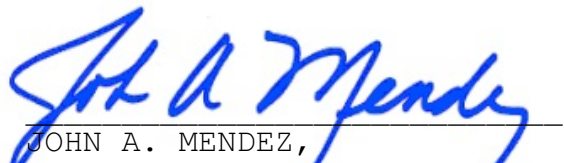
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11 Defendants did not respond to the Notice of Non-Opposition  
12 and have offered no argument as to why the Court should retain  
13 jurisdiction of the case when no federal claims remain.  
14 Accordingly, because all federal claims have been dismissed from  
15 this action, the Court declines to exercise supplemental  
16 jurisdiction over the remaining state law claims.  
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19 ORDER

20 For the reasons set forth above, Defendants' Motion to  
21 dismiss is GRANTED. Plaintiffs' TILA and RESPA claims are hereby  
22 DISMISSED, WITH PREJUDICE. The Court declines to exercise  
23 jurisdiction over the remaining state law claims. The state law  
24 claims are DISMISSED, WITHOUT PREJUDICE.  
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26 IT IS SO ORDERED.

27 Dated: April 14, 2010

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JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE