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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 DEFENDANT'S  
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.

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This matter comes before the Court on Defendant's MTC  
Financial dba Trustee Corps' ("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 Procedure 12(b)(6). Plaintiffs do not

1 oppose the motion.<sup>1</sup> The Court takes judicial notice as requested  
2 by Defendant.

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. Only state law  
9 claims were brought against Defendant.  
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12           In response to Defendant's Motion to Dismiss, Plaintiffs  
13 filed a Notice of Non-Opposition. The Notice of Non-Opposition  
14 states that Plaintiffs have no opposition to dismissal of the  
15 two federal TILA and RESPA claims. Neither of these claims were  
16 alleged against Defendant MTC Financial, however it appears that  
17 Plaintiff simply used the same Notice to respond to Defendant's  
18 Motion to Dismiss and the motions to dismiss filed by other  
19 defendants in the case.  
20

21           The Notice of Non-Opposition also requests that the Court  
22 dismiss the remaining state law claims without prejudice, or in  
23 the alternative grant Plaintiffs leave to file a second amended  
24 complaint which removes the federal claims. Plaintiffs argue  
25 that because they have no opposition to the dismissal of their  
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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 federal claims, and there are no allegations of diversity by  
2 either party, the Court lacks jurisdiction to decide the  
3 remaining state claims once it has dismissed the federal claims.  
4

5 "Subject to the conditions set forth in 28 U.S.C. §1367(c),  
6 district courts may decline to exercise supplemental  
7 jurisdiction over state law claims... In the usual case in which  
8 federal law claims are eliminated before trial, the balance of  
9 factors will point toward declining to exercise jurisdiction  
10 over the remaining state law claims." Keen v. American Home  
11 Mortgage Servicing, Inc., 2010 WL 624306 , at \*1 (E.D. Cal. Feb.  
12 18, 2010) (internal citations omitted).  
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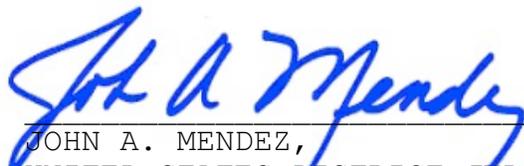
14 Defendant did not respond to the Notice of Non-Opposition  
15 and has offered no argument as to why the Court should retain  
16 jurisdiction of the case when no federal claims remain.  
17 Accordingly, because all federal claims have been dismissed from  
18 this action, the Court declines to exercise supplemental  
19 jurisdiction over the remaining state law claims.  
20

21 ORDER

22 For the reasons set forth above, the Court declines to  
23 exercise jurisdiction over the remaining state law claims.  
24 Defendant's Motion to Dismiss is hereby GRANTED, WITHOUT  
25 PREJUDICE.  
26

27 IT IS SO ORDERED.

28 Dated: April 14, 2010

  
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JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE