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UNITED STATES DISTRICT COURT

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FOR THE EASTERN DISTRICT OF CALIFORNIA

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10 GUADALUPE NAVARRO AND
DANIEL NAVARRO

NO. CIV. S-10-0457 LKK/DAD

11 Plaintiff,

12 v.

O R D E R13 BANK OF AMERICA FKA
14 COUNTRYWIDE HOME LAOSN, INC.;
AMERICA'S WHOLESALE LENDER;
15 MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
16 OMEGA REALTY AND HOME LOANS;
LARRY LEE HARTMAN; and DOES
1-20 inclusive,

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Defendants.

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19 This case concerns plaintiffs' home mortgage. Plaintiffs
20 initially filed in state court. Defendants removed, and then moved
21 to dismiss all claims. (Dkt. No. 10.) This motion was noticed for
22 hearing for April 19, 2010. Pursuant to E.D. Cal. Local Rule
23 230(c), plaintiffs opposition or statement of non-opposition was
24 due on April 5, 2010.

25 On March 25, 2010, plaintiff filed an amended complaint. This
26 complaint omitted, among other things, plaintiffs' claim under the

1 Real Estate Procedures Settlement Act, 12 U.S.C. §§ 2601-2617. By
2 order of Friday, April 2, 2010, the court held that this amended
3 complaint was untimely. (Dkt. No. 15.). The court construed the
4 complaint as a statement of non-opposition to dismissal of the
5 federal claims and a motion to remand the remaining claims.
6 Pursuant to these holdings, the court directed plaintiffs to file
7 an opposition or statement of non-opposition as to dismissal of the
8 remaining claims by the April 5 deadline, and the court permitted
9 defendants to file an opposition to the motion for remand.

10 Plaintiffs opposition was submitted on April 6, 2010, one day
11 late. In light of plaintiffs' erroneous, but not inherently
12 frivolous, belief that the amended complaint mooted the motion to
13 dismiss, the court accepts this one day delay. The court therefore
14 rejects defendants' argument that all claims should be dismissed
15 for failure to file a timely opposition.

16 The court previously indicated its belief that, absent a
17 further basis for federal jurisdiction, remand of the state law
18 claims was proper. Defendants have not identified a basis for
19 federal jurisdiction. Accordingly, this case is REMANDED to the
20 Superior Court for the State of California, County of Sacramento.

21 IT IS SO ORDERED.

22 DATED: April 21, 2010.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT