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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

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12 DELICIA MASON,

Civ. No. 2:10-cv-0986 FCD/DAD

13 Plaintiff,

14 v.

MEMORANDUM AND ORDER

15 MORTGAGEIT, Inc., et al.,

16 Defendants.
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20 This matter is before the court on the basis of defendant
21 Federal Deposit Insurance Corporation's, as Receiver for
22 defendant IndyMac Federal Bank, FSB, (the "FDIC") notice of
23 removal of plaintiff's complaint from the Superior Court of
24 California in and for the County of Placer. The FDIC removed the
25 complaint, which alleged only state law claims against all
26 defendants, on the basis of federal question jurisdiction because
27 any civil suit in which the FDIC, in any capacity, is a party is
28 "deemed to arise under the laws of the United States." 12 U.S.C.
§ 1819(b)(2)(A); see also Bullion Serv., Inc. v. Valley State

1 Bank, 50 F.3d 705, 707 (9th Cir. 1995). On May 3, 2010, the
2 court entered an order, based upon the stipulations of the
3 parties, dismissing plaintiff's claim against the FDIC with
4 prejudice.

5 Dismissal of the FDIC as a party leaves the complaint devoid
6 of any federal claims. The remaining claims are state law claims
7 against the sole served defendant, MortgageIT, Inc. for fraud,
8 breach of contract, breach of the implied covenant of good faith
9 and fair dealing, violation of the California Rosenthal Act,
10 negligence, violation of California Business and Professions Code
11 §§ 17200 *et seq.*, violation of California Civil Code §§ 2932.5 *et*
12 *seq.*, and quiet title. (Pl.'s Compl. ("Compl."))

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

5 Accordingly, plaintiff's complaint is REMANDED to the
6 Superior Court of California in and for the County of Placer.

7 IT IS SO ORDERED.

8 DATED: May 7, 2010

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11 FRANK C. DAMRELL, JR.
12 UNITED STATES DISTRICT JUDGE
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