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United States District Court
For the Northern District of California

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

LESLI BURCH,
Plaintiff,
v.
GMAC MORTGAGE, LLC., and PAUL
FINANCIAL, LLC,
Defendants

No. C-09-4214 MMC

**ORDER GRANTING SUMMARY
JUDGMENT ON REMAINING CLAIM IN
FIRST CAUSE OF ACTION; DISMISSING
SECOND CAUSE OF ACTION WITHOUT
PREJUDICE; VACATING MAY 7, 2010
HEARING**

By order filed March 15, 2010, the Court granted in part, denied in part, and deferred ruling in part on the motions to dismiss filed, respectively, by defendant GMAC Mortgage, LLC and by defendant Paul Financial, LLC. Specifically, the Court (1) dismissed the First Cause of Action to the extent it was based on a failure to deliver material disclosures, (2) found the First Cause of Action was not subject to dismissal to the extent it was based on a failure to deliver two copies of a notice of the right to rescind, but construed defendants' motions to dismiss said claim as motions for summary judgment and deferred ruling thereon to afford plaintiff Lesli Burch the opportunity to file supplemental opposition no later than April 9, 2010, and (3) deferred ruling on whether the Second Cause of Action was subject to dismissal, pending the Court's determination as to whether a triable issue of fact exists with respect to the remaining claim in the First Cause

1 of Action.

2 Plaintiff has failed to file supplemental opposition by the deadline set forth in the
3 Court's March 15, 2010 order. Accordingly, no supplemental opposition having been filed,
4 the Court finds it appropriate to vacate the hearing scheduled for May 7, 2010, and hereby
5 rules on the deferred portions of defendants' motions, as follows.

6 **A. Remaining Claim In First Cause of Action**

7 For the reasons stated in the Court's order of March 15, 2010, the Court finds the
8 evidence submitted by defendants is sufficient to create a presumption that Paul Financial,
9 LLC delivered to plaintiff two copies of a notice informing her of her right to rescind the
10 transaction. (See Order, filed March 15, 2010, at 3:22-5:7.) Plaintiff has failed to submit
11 any evidence to rebut the presumption.

12 Accordingly, defendants are entitled to summary judgment on the remaining claim in
13 the First Cause of Action.

14 **B. Second Cause of Action**

15 The Court's jurisdiction over the Second Cause of Action is supplemental in nature.
16 See 28 U.S.C. § 1367(a). Where a district court has granted summary judgment on the
17 federal claims alleged by the plaintiff, the district court may properly decline to exercise
18 supplemental jurisdiction over remaining state law claims. See Bryant v. Adventist Health
19 System/West, 289 F.3d 1162, 1169 (9th Cir. 2002).

20 Here, having considered the matter, the Court finds it appropriate to decline to
21 exercise supplemental jurisdiction over the Second Cause of Action.

22 Accordingly, the Second Cause of Action will be dismissed without prejudice.

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CONCLUSION

For the reasons stated above:

1. Defendants' motions for summary judgment on the remaining claim in the First Cause of Action are hereby GRANTED.

2. The Second Cause of Action is hereby DISMISSED without prejudice to plaintiff's refiling the Second Cause of Action in state court.

The Clerk shall close the file.

IT IS SO ORDERED.

Dated: April 16, 2010


MAXINE M. CHESNEY
United States District Judge