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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HUNG TRAN,  
Plaintiff,  
v.  
SELECT PORTFOLIO SERVICING, INC.,  
et al.,  
Defendants.

Case No. 14-cv-05404-HSG

**ORDER REMANDING ACTION TO  
ALAMEDA COUNTY SUPERIOR  
COURT**

**I. INTRODUCTION**

Plaintiff Hung Tran (“Plaintiff”) filed this action against Defendants Select Portfolio Servicing (“SPS”), US Bank N.A. and JPMorgan Chase Bank (“Chase”) (collectively “Defendants”) in Alameda County Superior Court. Compl. (Dkt. No. 1, Ex. 1). Plaintiff alleges that two loan modification agreements with Defendants contained “arrearages . . . discharged in bankruptcy,” denying him “the benefit of his bankruptcy discharge.” Compl. ¶ 8. Plaintiff also alleges that Defendants erroneously instituted foreclosure proceedings on the subject property, and are violating the modification agreements by charging him more than he owes on the loan. *Id.* ¶¶ 8, 11-12.

SDS and U.S. Bank subsequently removed the action to this Court on two grounds: (1) federal question jurisdiction under 28 U.S.C §§ 1331(a) and 1441(a) based on Plaintiff’s claim under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 et. seq.; and (2) jurisdiction under 28 U.S.C. §§ 1334(a)(b) and 1452(a) based on the theory that Plaintiff’s complaint alleges causes of action sounding in or “related to” bankruptcy. Not. of Removal (Dkt. No. 1). On April 14, 2015, the Court granted Defendants’ motions to dismiss with prejudice as to Plaintiff’s sole federal claim under the FDCPA. Order on Mot. to Dismiss (Dkt. No. 37).

Having dismissed the sole federal claim in the complaint without leave to amend, the Court

1 must determine whether to retain jurisdiction over the remaining state law causes of action.  
2 Defendants argue that the Court should retain jurisdiction over these claims on two grounds: (1)  
3 as an exercise of its jurisdiction over issues “related to” a bankruptcy proceeding under 28 U.S.C.  
4 §§ 1334 and 1452; and (2) as an exercise of its general supplemental jurisdiction under 28 U.S.C.  
5 § 1367(a). For the reasons discussed below, the Court concludes that these claims should be  
6 remanded to the Alameda County Superior Court.

7 **II. “RELATED TO” BANKRUPTCY JURISDICTION**

8 **A. Legal Standard**

9 Under Section 1334(a), federal courts are courts of “original,” but not “exclusive,”  
10 jurisdiction for all civil proceedings “arising in or related to a [bankruptcy] case under title 11.”  
11 28 U.S.C. § 1334(a). A civil proceeding is considered “related to bankruptcy” if the outcome  
12 could “alter the debtor’s rights, liabilities, options or freedom of action (either positively or  
13 negatively) . . . in any way [that] impacts upon the handling and administration of the bankrupt  
14 estate.” *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988) (citing *Pacor, Inc. v. Higgins*, 743 F.2d  
15 984, 994 (3d Cir. 1984)). Where “related to” jurisdiction exists, a party may remove a claim to the  
16 “district court for the district where the civil action is pending if that court has jurisdiction  
17 pursuant to § 1334.” 28 U.S.C. § 1452(a). However, even where such removal jurisdiction  
18 exists, “[t]he court to which such claim or cause of action is removed may remand such claim or  
19 cause of action on any equitable ground.” 28 U.S.C. § 1452(b).

20 **B. Assuming “Related To” Jurisdiction Exists Here, Discretionary Factors Weigh**  
21 **Substantially in Favor of Equitable Remand**

22 Defendants contend that Plaintiff’s claims are “related to” Plaintiff’s previous bankruptcy  
23 action because he alleges that Defendants are attempting to require him to pay a debt that was  
24 partially discharged in his 2012 bankruptcy proceeding. *See* Not. of Removal at 3; *see, e.g.*,  
25 Compl., ¶¶ 6-8, 10, 11. For purposes of this Order, the Court assumes, without deciding, that  
26 Plaintiff’s state law claims are “related to” the prior bankruptcy proceeding.<sup>1</sup>

27 \_\_\_\_\_  
28 <sup>1</sup> Once a bankruptcy plan has been confirmed, “related to” jurisdiction is limited to circumstances  
in which “there is a close nexus to the bankruptcy plan or proceeding.” *In re Pegasus Gold Corp.*,  
394 F.3d 1189, 1194 (9th Cir. 2005).

1           “Section 1452(b) gives courts an unusually broad grant of authority in determining  
2 whether remand is equitable.” *Charles Schwab Corp. v. Banc of America Securities*, No. 10-CV-  
3 03489-LHK, 2011 WL 864978 at \*7 (N.D. Cal. Mar. 11, 2011) (internal quotation marks and  
4 citations omitted). District courts in this circuit “have typically identified seven factors governing  
5 the decision to remand: (1) the effect of the action on the administration of the bankruptcy estate;  
6 (2) the extent to which issues of state law predominate; (3) the difficulty of applicable state law;  
7 (4) comity; (5) the relatedness of the action to the bankruptcy case; (6) any jury trial right; and (7)  
8 prejudice to plaintiffs from removal.” *Parke v. Cardsystems Solutions*, No. C 06-04857 WHA,  
9 2006 WL 2917604, at \*4 (N.D. Cal. Oct. 11, 2006) (quoting *Hopkins v. Plant Insulation Co.*, 349  
10 B.R. 805, 813 (N.D. Cal. 2006)).

11           Assessing these factors, the Court concludes that equitable remand of Plaintiff’s remaining  
12 claims to the state court is appropriate.

13                           **1. State Law Issues Thoroughly Predominate Plaintiff’s Claims**

14           In the Court’s view, the most significant factors weighing in favor of remand are the  
15 undeniable prevalence of substantial (and, in at least one case, unsettled) state law issues (factors  
16 (2), (3) and (4)). Now that the FDCPA claim has been dismissed, all six of Plaintiff’s claims arise  
17 under California law, and disputes over California law dominate both sides’ arguments in their  
18 briefs. At least two of Plaintiff’s claims, regarding the assignment of the deed of trust on  
19 Plaintiff’s home and the attempted foreclosure thereon, involve the application of legal standards  
20 currently under review by the California Supreme Court. *See Yvanova v. New Century Mortgage*  
21 *Corp.*, 331 P.3d 1275 (Cal. 2014) (granting review regarding whether, in an action for wrongful  
22 foreclosure on a deed of trust securing a home loan, a borrower has standing to challenge an  
23 assignment of the note and deed of trust on the basis of defects allegedly rendering the assignment  
24 void).

25           Were the Court to retain jurisdiction here, its sole role would be to attempt to predict how  
26 the California courts would decide multiple questions of California law. As a matter of both  
27 comity and deference to the California courts’ unique expertise in interpreting California law,  
28 remand is appropriate here. *See In re Schwartz*, 5:09–cv–05831 EJD, 2012 WL 899331, at \*2

1 (N.D. Cal. Mar. 12, 2012) (“[P]erhaps most importantly, state law issues clearly predominate the  
2 entire action. Without a doubt the state court is better able to hear and determine a suit involving  
3 questions of state law.”) (citation omitted)); *Parke*, 2006 WL 2917604 at \*5 (“Comity dictates that  
4 California courts should have the right to adjudicate the exclusively state law claims involving  
5 California-centric plaintiffs and California-centric transactions.”) (citation and internal quotation  
6 marks omitted).

7 **2. This Case Will Not Affect the Administration of the Bankruptcy Estate**

8 The Court also finds that the remaining issues in this case do not have any apparent  
9 bearing on the administration of the bankruptcy estate (factors (1) and (5) above). Remand is  
10 typically granted when the case will not affect the bankruptcy estate. *See, e.g., In re Schwartz*,  
11 2012 WL 899331 at \*1 (remanding where bankruptcy estate would not be affected and state law  
12 issues predominated); *Charles Schwab*, 2011 WL 864978 at \*7 (remanding after finding only a  
13 “remote connection” between the remaining causes of action and related bankruptcy proceedings);  
14 *Parke*, 2006 WL 2917604 at \*5 (remanding after finding “little relation between the bankruptcy  
15 proceedings and plaintiffs’ putative-class action”). There is no dispute that Plaintiff’s bankruptcy  
16 action has been closed for over three years, and no party contests that a decision to remand would  
17 bear “little impact on the administration of the estate.” *See* Compl. ¶ 6, Ex. B (Chapter 7 discharge  
18 occurred on April 11, 2012); Chase Supp. Br. at 4 (Dkt. No. 35). As a result, there is no apparent  
19 risk that this case could impede the orderly administration of the bankruptcy plan or resolution of  
20 bankruptcy-related issues. And the remoteness in time of the bankruptcy action further weighs in  
21 favor of remand.

22 **3. No Prejudice Will Result From Remand**

23 Plaintiff filed this action in Alameda State Court in the first instance, and has no objection  
24 to the case being remanded. *See* Pl.’s Supp. Br. (Dkt. No. 38). No prejudice to either party will  
25 result from remand (nor would prejudice result from the case remaining in federal court). The  
26 parties will have full jury trial rights in state court just as they do in this Court. Accordingly,  
27 neither of these factors counsels against remand.

28 Finally, Defendants make an argument not raised in *Hopkins*: they claim that remand

1 would resort in duplication of judicial resources. *See* SPS Supp. Br. at 5 (Dkt. No. 36)  
2 (“Remanding this matter to the Superior Court will require a new Court to get up to speed and will  
3 result in a waste of this Court’s resources, which will also substantially prejudice Defendants.”); *see*  
4 *also* Chase Supp. Br. at 4 (Dkt. No. 35) (“[T]his Court has already evaluated underlying facts and  
5 allegations set forth in the motions for dismissal and the operative complaint. . . . If this matter were to  
6 be remanded, such evaluations would necessarily be required to reinitiate within the state court  
7 system.”). The Court agrees that duplication of judicial resources is a reasonable factor to consider  
8 in deciding whether to remand this action. However, given the current posture of the case, the  
9 Court disagrees that remand will result in a “waste of this Court’s resources” or prejudice to  
10 Defendants. The Court’s ruling on Plaintiff’s FDCPA claim was predicated solely on federal law,  
11 as applied to the allegations in the complaint. The remaining claims present solely issues of  
12 California law, and the Court has not considered those claims. All of the parties’ arguments  
13 regarding the state law claims can readily be repackaged and presented to the Superior Court.  
14 Remand to the court in which this action originated will not result in any prejudice to any party.

15 **III. SUPPLEMENTAL JURISDICTION**

16 Under 28 U.S.C. § 1367(a), the district courts have “supplemental jurisdiction over all  
17 other claims that are so related to claims in the action within such original jurisdiction that they  
18 form a part of the same case or controversy under Article III.” A district court may decline to  
19 exercise supplemental jurisdiction if it has dismissed all claims over which it has original  
20 jurisdiction. “[I]n the usual case in which all federal-law claims are eliminated before trial, the  
21 balance of factors to be considered under the pendent jurisdiction doctrine—judicial economy,  
22 convenience, fairness, and comity—will point toward declining to exercise jurisdiction over the  
23 remaining state-law claims.” *Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 561 (9th Cir. 2010).

24 Accordingly, the Court declines to exercise supplemental jurisdiction over Plaintiff’s  
25 remaining state law claims. *See Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 351 (1988)  
26 (“Where, as here, all federal-law claims in the action have been eliminated and only pendent state-  
27 law claims remain, the district court has a powerful reason to choose not to continue to exercise  
28 jurisdiction. A wide discretion to remand rather than to dismiss . . . best serves the principles of

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judicial economy, procedural convenience, fairness to litigants, and comity to the States which underlie the pendent jurisdiction doctrine.”).

**IV. CONCLUSION**

For the foregoing reasons, the Court REMANDS Plaintiff’s remaining claims to the Alameda County Superior Court.

**IT IS SO ORDERED.**

Dated: April 16, 2015

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge