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3 UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION

6 RODOLFO VELASQUEZ,

7 Plaintiff,

8 v.

9 COUNTRYWIDE HOME LOANS, INC.;
10 BANK OF AMERICA, N.A.; LTD
FINANCIAL SERVICES, L.P.,

11 Defendants.

Case No: C 11-02491 SBA

DISMISSAL ORDER

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14 On May 23, 2011, pro se Plaintiff Rodolfo Velasquez ("Plaintiff") filed the instant
15 mortgage fraud action alleging sixteen claims against Defendants Countrywide Home
16 Loans, Inc., Bank of America, N.A., and LTD Financial Services, L.P. Compl., Dkt. 1. On
17 November 16, 2011, Plaintiff filed a second amended complaint ("SAC") alleging twenty
18 claims against Defendants. Dkt. 28. The Court has original jurisdiction, 28 U.S.C. § 1331,
19 over Plaintiff's federal claims under the Fair Debt Collection Practices Act ("FDCPA"), 15
20 U.S.C. § 1692 et seq., the Truth in Lending Act ("TILA"), 15 U.S.C. § 1601, et seq., and
21 the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2601, et seq. The
22 Court has supplemental jurisdiction, 28 U.S.C. § 1367, with respect to Plaintiff's state law
23 claims.

24 On June 21, 2012, this Court issued an Order granting in part and denying in part
25 Defendants Countrywide Home Loans, Inc. and Bank of America, N.A.'s (collectively
26 "Defendants") motion to dismiss. Dkt. 67. The motion was granted with respect to
27 Plaintiff's FDCPA, TILA, and RESPA claims as to all Defendants. Plaintiff's FDCPA
28 claim and TILA claim for rescission were dismissed with prejudice, while Plaintiff's

1 RESPA claim was dismissed with leave to amend. The motion was denied in all other
2 respects without prejudice. The Court ordered Plaintiff to file a third amended complaint
3 within twenty-one (21) days of June 21, 2012. The Court warned Plaintiff that the failure
4 to file a third amended complaint by the deadline will result in the dismissal of his RESPA
5 claim with prejudice and the dismissal of his remaining state law claims without prejudice
6 to the filing of these claims in a state court action. To date, Plaintiff has not filed a third
7 amended complaint.

8 Accordingly, because more than 21 days have elapsed since the Court's June 21,
9 2012 Order, Plaintiff's RESPA claim is DISMISSED with prejudice. Having now
10 dismissed all of the federal claims alleged in the SAC, the Court declines to assert
11 supplemental jurisdiction over Plaintiff's remaining state law claims. See 28 U.S.C. §
12 1367(c)(3) (a district court may decline to exercise supplemental jurisdiction if it has
13 dismissed all claims over which it has original jurisdiction); see also Sanford v.
14 MemberWorks, Inc., 625 F.3d 550, 561 (9th Cir. 2010) (" [I]n the usual case in which all
15 federal-law claims are eliminated before trial, the balance of factors to be considered under
16 the pendent jurisdiction doctrine – judicial economy, convenience, fairness, and comity –
17 will point toward declining to exercise jurisdiction over the remaining state-law claims.' ");
18 Harrell v. 20th Century Ins. Co., 934 F.2d 203, 205 (9th Cir. 1991) ("it is generally
19 preferable for a district court to remand remaining pendant claims to state court. . . .").

20 For the reasons stated above, IT IS HEREBY ORDERED THAT:

- 21 1. Plaintiff's RESPA claim is DISMISSED with prejudice.
- 22 2. The Court declines to assert supplemental jurisdiction over Plaintiff's
23 remaining state law claims, which are dismissed without prejudice to the refileing of these
24 claims in a state court action.
- 25 3. The Clerk shall close the file and terminate all pending matters.

26 IT IS SO ORDERED.

27 Dated: 8/17/12

28 
SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
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4 RODOLFO VELASQUEZ,

5 Plaintiff,

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8 Defendant.

9 _____/

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Case Number: CV11-02491 SBA

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CERTIFICATE OF SERVICE

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14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
15 Court, Northern District of California.

16

17 That on August 20, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
18 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
19 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
20 located in the Clerk's office.

18

19

20

21 Rodolfo Velasquez
22 426 Idora Avenue
23 Vallejo, CA 94591

24 Dated: August 20, 2012

25

Richard W. Wieking, Clerk
By: Lisa Clark, Deputy Clerk

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