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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
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12 AUGUSTINE MARTINEZ, et al., )

13 Plaintiffs, )

14 v. )

15 AC LUMBER, et al., )

16 Defendants. )  
17  
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Case No.: C 07-2710 PVT

**ORDER DISMISSING CASE  
WITHOUT PREJUDICE**

19 On November 9, 2009, the court issued an order to show cause why this action should not be  
20 dismissed without prejudice to Plaintiffs filing a complaint in state court. No response to the order  
21 to show cause was filed by any of the parties. Therefore, based on the file herein,

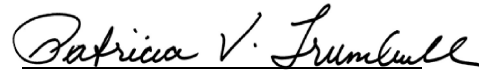
22 IT IS HEREBY ORDERED that this case is DISMISSED without prejudice to Plaintiffs  
23 filing a complaint in state court. Plaintiffs have withdrawn their only federal claims.<sup>1</sup> In cases where  
24 all federal-law claims are eliminated before trial, “the balance of factors to be considered under the  
25 pendent jurisdiction doctrine-judicial economy, convenience, fairness, and comity-will point toward  
26 declining to exercise jurisdiction over the remaining state-law claims.” *Carnegie-Mellon Univ. v.*  
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<sup>1</sup> See Joint Pretrial Conference Statement (docket no. 41) at 3:8-10, 4:11-13 & 5:16-18.

1 *Cohill*, 484 U.S. 343, 350 n. 7 (1988); *see also* 28 U.S.C. § 1367(c)(3) & (d).<sup>2</sup>

2 Dated: 12/9/09

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4 PATRICIA V. TRUMBULL  
United States Magistrate Judge

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<sup>2</sup> The statute of limitations concern articulated in *Carnegie-Mellon* was later addressed  
28 when congress enacted the supplemental jurisdiction statute, which includes a provision tolling the  
statute of limitations for state law claims when they are filed along with federal claims in district  
court. *See* 28 U.S.C. § 1367(d)

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*Counsel automatically notified of this filing via the court's Electronic Case Filing system.*

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/s/ Donna Kirchner for  
CORINNE LEW  
Courtroom Deputy