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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GEORGE CASTRO,  
  
Plaintiff,  
  
vs.  
NETWORK FINANCIAL COMPANY,  
ADVOCATE FOR FAIR LENDING,  
LLC, MARK A. SHOEMAKER, LAW  
OFFICE OF MARK A. SHOEMAKER,  
APC, NDEX WEST, LLC, LAW OFFICE  
OF MARK A. SHOEMAKER, APC, all  
persons unknown claiming any legal or  
equitable right, title, estate, lien or interest  
in the Property adverse to Plaintiff's title,  
or any cloud on Plaintiff's title to the  
property, and DOES 1-100,  
  
Defendants.  
  
MARK A. SHOEMAKER,  
  
Counter-Claimant,  
  
vs.  
GEORGE CASTRO, NETWORK  
FINANCIAL COMPANY, US BANK  
NATIONAL ASSOCIATION,  
AMERICA'S SERVICING COMPANY,  
NDEX WEST, LLC, ANDREW H.  
GRIFFIN, III, and DOES 1 through 10,  
  
Counter-Defendants.

CASE NO. 10cv243 WQH (KSC)  
  
ORDER

1 HAYES, Judge:

2 On December 31, 2009, Plaintiff initiated this action by filing suit in Superior Court  
3 of California for the County of San Diego against Network Financial Company, Advocate  
4 for Fair Lending, LLC, Mark A. Shoemaker, Law Office of Mark A. Shoemaker, APC,  
5 Ndex West LLC, America's Servicing Company ("ASC"), and U.S. Bank. The Complaint  
6 contained claims for violation of the Real Estate Settlement Procedures Act ("RESPA")  
7 under 12 U.S.C. § 2605 and the Truth in Lending Act ("TILA") under 15 U.S.C. § 1601.

8 On January 29, 2010, Defendants ASC and U.S. Bank filed a Notice of Removal  
9 removing the case to this Court asserting that federal question jurisdiction supported the  
10 removal. Defendants Advocate for Fair Lending, LLC, the Law Office of Mark A.  
11 Shoemaker, APC, Mark A. Shoemaker, and Ndex West LLC filed notices of consent to  
12 removal.

13 On February 5, 2010, Defendants ASC and U.S. Bank filed a Motion to Dismiss which  
14 was granted on April 27, 2010.

15 On July 13, 2010, Plaintiff filed his First Amended Complaint against the same  
16 Defendants. The First Amended Complaint contains the following federal claims: violation  
17 of RESPA against Network Financial Company and violation of TILA against Network  
18 Financial Company. The remaining claims are asserted under state laws.

19 On July 30, 2010, Defendants ASC and U.S. Bank filed a Motion to Dismiss Plaintiff's  
20 First Amended Complaint. On August 25, 2010, the parties filed a stipulation that Defendants  
21 ASC and U.S. Bank should be dismissed with prejudice. On October 18, 2010, Defendants  
22 ASC and U.S. Bank were dismissed with prejudice.

23 On January 26, 2012, the Magistrate Judge conducted a status conference. On February  
24 2, 2012, the Magistrate Judge issued an order stating: "As to ... Network Financial Company,  
25 there is nothing in the docket to confirm this entity has ever been served and no counsel has  
26 ever appeared on its behalf.... Plaintiff is therefore ordered to serve the First Amended  
27 Complaint on ... Network Financial Company, no later than February 17, 2012 and file proofs  
28 of service with the Court, no later than February 22, 2012. Defendants will have 20 days to file

1 responsive pleadings from the date of service.” (ECF No. 34 at 2).

2 On March 9, 2012, Defendant Mark A. Shoemaker filed an Answer and filed a Counter-  
3 claim asserting claims for indemnity against George Castro, Network Financial Company, U.S.  
4 Bank National Association, ACS, Ndex West LLC, and Andrew H. Griffin, III.

5 On April 6, 2012, NDEx West, LLC filed a Motion to Dismiss the Counter-Claim. On  
6 April 20, 2012, George Castro and Andrew H. Griffin, III filed a Motion to Dismiss the  
7 Counter-Claim.

8 To date, a proof of service for Network Financial Company has not been filed.

9 On June 11, 2012, this Court issued an Order stating:

10 In this case, Plaintiff has asserted two claims pursuant to federal  
11 statutes against Network Financial Company. However, Plaintiff has  
12 failed to serve Network Financial Company. Plaintiff has not asserted  
13 that this Court has subject matter jurisdiction pursuant to diversity.  
Based on the record, the Court finds that federal question jurisdiction  
is lacking. ... The Court declines to exercise supplemental jurisdiction  
over the state law claims.

14 This case was removed from state court. ... Pursuant to 28  
15 U.S.C. § 1447(c), this action should be remanded to the California  
16 Superior Court for the County of San Diego, where it was originally  
filed and assigned Case No. 37-2009-00080288-CU-OR-SC....


17 The parties are ORDERED TO SHOW CAUSE why this case  
18 should not be remanded to state court for lack of subject matter  
jurisdiction and/or why this Court should exercise supplemental  
jurisdiction by no later than July 2, 2012. If the parties fail to respond  
to this Order the case will be remanded to state court.

19 (ECF No. 62 at 3-4).

20 On June 13, 2012, Plaintiff filed a statement of no opposition to the Order to Show  
21 Cause. No other party filed a response to the Order to Show Cause.

22 IT IS HEREBY ORDERED that this action is remanded to the California Superior  
23 Court for the County of San Diego, where it was originally filed and assigned Case No.  
24 37-2009-00080288-CU-OR-SC

25 DATED: July 9, 2012

26   
27 **WILLIAM Q. HAYES**  
28 United States District Judge