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

SCOTT KMETY, an individual, DARLA
KMETY, an individual,

Plaintiff,

vs.

BANK OF AMERICA, INC., a
corporation; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, a
corporation; RECONSTRUST
COMPANY, a trustee; and DOES 1
through 20,

Defendants.

CASE NO. 10cv1910-LAB (RBB)

**ORDER DISMISSING CERTAIN
CLAIMS; AND
ORDER OF REMAND**

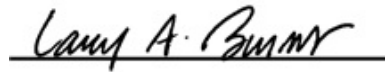
On September 30, 2011, the Court issued an order dismissing Plaintiffs' claims under the Truth in Lending Act (TILA) and the Real Estate Settlement Practices Act (RESPA), without prejudice, but requiring Plaintiffs within 14 calendar days to show cause why these two claims should not be dismissed with prejudice. The order cautioned the parties that if Plaintiffs did not show cause as ordered, the TILA and RESPA claims would be dismissed with prejudice and this action remanded to state court.

Since that time, Plaintiffs have not filed any response, nor sought additional time in which to do so. Plaintiffs' claims under TILA and RESPA are therefore **DISMISSED WITH PREJUDICE.**

1 Because the Court has dismissed all claims over which it has original jurisdiction,
2 pursuant to 28 U.S.C. § 1367(c)(3) it declines to exercise jurisdiction over Plaintiffs' state
3 claims. *See Harrell v. 20th Century Ins. Co.*, 934 F.2d 203, 205 (9th Cir. 1991) (“[I]t is
4 generally preferable for a district court to remand remaining pendent claims to state court
5”) This action is therefore **REMANDED** to the Superior Court of the State of California
6 for the County of San Diego.

7 **IT IS SO ORDERED.**

8 DATED: October 17, 2011

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10 **HONORABLE LARRY ALAN BURNS**
11 United States District Judge
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