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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 KATHY WESTFALL,
11 Plaintiff,
12 v.
13 MORTGAGE ELECTRONIC
14 REGISTRATION SYSTEMS, INC. *et al.*,
15 Defendants.
16

Case No.: 3:15-cv-01403-L-NLS

**ORDER DISMISSING ACTION FOR
LACK OF SUBJECT MATTER
JURISDICTION AND GRANTING
PLAINTIFF LEAVE TO AMEND**

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18 Pending before the Court in this wrongful foreclosure action is Defendants' motion
19 for judgment on the pleadings. Plaintiff filed an opposition and Defendants' replied. For
20 the reasons stated below, the action is dismissed for lack of subject matter jurisdiction,
21 Defendants' motion is denied as moot, and Plaintiff is granted leave to amend
22 jurisdictional allegations.

23 In her operative first amended complaint, Plaintiff alleged claims for (1) violations
24 of the Real Estate Settlement Procedures Act, 12 U.S.C. §2601 *et seq.* (“RESPA”), (2)
25 violations of the Truth in Lending Act, 15 U.S.C. §1601 *et seq.* (“TILA”), (3) wrongful
26 foreclosure, (4) quiet title, (5) cancellation of instruments, (6) violation of California
27 Unfair Competition Law, Cal. Bus. & Profs. Code § 17200, *et. seq.* (“UCL”), and (7)
28 unjust enrichment. The third cause of action for wrongful foreclosure, only to the extent

1 Plaintiff sought damages, and seventh cause of action for unjust enrichment have been
2 dismissed without leave to amend. (Doc. no. 38 (Order Granting in Part and Denying in
3 Part Defendants' Motion to Dismiss ("Order").)

4 As noted in the Order (Order at 3), the Court had federal question jurisdiction over
5 the first and second causes of action alleging RESPA and TILA violations, and
6 supplemental jurisdiction over the remaining state law claims. *See* 28 U.S.C. § 1331 &
7 1367. Subsequently, Plaintiff dismissed all claims against Defendant Bank of America,
8 N.A. ("B of A"). (Docs. no. 75, 76.) Because the RESPA and TILA claims were alleged
9 only against B of A (*see* doc. no. 21 (first am. compl. ("FAC"))) at 21, 24), no federal
10 claims remain, and the Court no longer has federal question jurisdiction over any claims.
11 Although Plaintiff also alleged that the Court had diversity jurisdiction under 28 U.S.C. §
12 1332, she did not allege sufficient facts regarding citizenship of each party to support that
13 assertion (*see id.* at 2-3), an issue that was brought to Plaintiff's attention in the Order
14 (Order at 3 n.1).

15 A district court "may decline to exercise supplemental jurisdiction [if it] has
16 dismissed all claims over which it has original jurisdiction," 28 U.S.C. § 1367(c)(3);
17 *see also Acri v. Varian Assoc., Inc.*, 114 F.3d 999, 1000 (9th Cir. 1997) (*en banc*).
18 "While discretion to decline to exercise supplemental jurisdiction over state law claims is
19 triggered by the presence of one of the conditions in § 1367(c), it is informed by the
20 *Gibbs* values of economy, convenience, fairness, and comity." *Id.* at 1001 (referring to
21 *United Mine Workers v. Gibbs*, 383 U.S. 715 (1966); internal quotation marks and
22 citations omitted.) "[I]n the usual case in which all federal-law claims are eliminated
23 before trial, the balance of factors ... will point toward declining to exercise jurisdiction
24 over the remaining state-law claims." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343,
25 350 n.7 (1988) (quoted in *Acri*, 114 F.3d at 1001). Accordingly, the Court declines to
26 exercise federal jurisdiction over the state law claims.

27 For the foregoing reasons, this action is dismissed under 28 U.S.C. § 1367(c)(3) for
28 lack of subject matter jurisdiction. Defendants' motion for judgment on the pleadings is

1 denied as moot. Pursuant to 28 U.S.C. §1653, Plaintiff is granted leave to amend to
2 allege a basis for diversity jurisdiction. If Plaintiff chooses to file an amended complaint,
3 she must do so no later than **January 15, 2019**.

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5 **IT IS SO ORDERED.**

6 Dated: December 27, 2018

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8 Hon. M. James Lorenz
9 United States District Judge

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