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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 RICHARD M. KIPPERMAN, CHAPTER
12 7 TRUSTEE FOR THE ESTATE OF
13 CHELSEA BISHAR CASE NO. 15-
08156-LTZ; CHELSEA BISHAR,

14 Plaintiffs,

15 v.

16 ALLSTATE INDEMNITY COMPANY;
17 ALLSTATE INSURANCE COMPANY;
and DOES 1 through 10, inclusive,

18 Defendants.
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Case No.: 16cv1247 JM (WVG)

**ORDER DENYING NONPARTY
ATTORNEY'S MOTION FOR
DETERMINATION OF LIEN
ENTITLEMENT**

21 On March 16, 2017, nonparty John T. Richards, the attorney for Plaintiffs Richard
22 M. Kipperman, Chapter 7 Trustee for the Estate of Chelsea Bishar and Chelsea Bishar,
23 moved the court for an order determining the propriety of a fee lien asserted by another
24 nonparty, Plaintiffs' former attorney Su Barry. (Doc. No. 14.) The court finds the matter
25 appropriate for decision without oral argument pursuant to Local Rule 7.1(d)(1) and for
26 the following reasons denies Richards's motion, without prejudice, for lack of subject
27 matter jurisdiction.

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1 **DISCUSSION**

2 Richards argues that the court has supplemental jurisdiction over his claim, a
3 purely state law issue, under 28 U.S.C. § 1367. In support, Richards cites, among other
4 out-of-circuit cases, Boykin v. McCoy, 384 F. App'x 579 (9th Cir. 2010), an unpublished
5 decision in which the Ninth Circuit stated that fee disputes “arising from litigation
6 pending before a district court” may “fall within that court’s ancillary jurisdiction.” Id.
7 at 581. In that case, the fee dispute involved a party to the action, “was closely related to
8 the court’s ability either to render an efficacious judgment or to control the litigation
9 before it,” and was “an impediment to settlement of the individual claims.” Id. (internal
10 citation omitted).

11 In this case, by contrast, the parties to the action have “resolved this matter in its
12 entirety.” (See Doc. No. 20.) “[T]he settlement agreement between the parties has been
13 executed and any terms that required action prior to dismissal have been satisfied.” (Id.)
14 All that remains is “a lien asserted in the underlying bankruptcy action” between two
15 nonparties. (Id.) Given this posture, nonparty Richards’s claim against nonparty Barry
16 falls far short of being “so related to claims in the action within [the court’s] original
17 jurisdiction that [it] form[s] part of the same case or controversy under Article III of the
18 United States Constitution.” 28 U.S.C. § 1367(a).¹ Consequently, the court does not
19 have jurisdiction over the claim, and “[w]ithout jurisdiction the court cannot proceed at
20 all” Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998).

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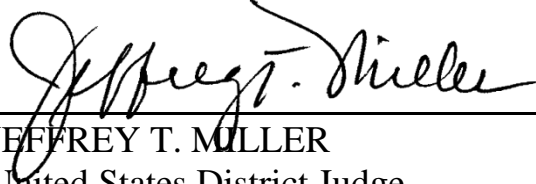
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25 _____
26 ¹ Even if subsection (a) were satisfied, the court would decline to exercise supplemental
27 jurisdiction under subsection (c) because Richards’s claim against Barry not only
28 predominates over the claims properly before the court, but is actually the only claim left
before the court. See 28 U.S.C. § 1367(c)(2)–(4).

1 **CONCLUSION**

2 For the foregoing reasons, the court denies Richards's motion, without prejudice,
3 for lack of subject matter jurisdiction.

4 IT IS SO ORDERED.

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6 DATED: April 26, 2017

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JEFFREY T. MILLER
United States District Judge