

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES RICHARDSON and
BEVERLY RICHARDSON,

Plaintiffs,

Case No. 10-13183

Honorable John Corbett O'Meara

v.

AMERICAN EQUITY MORTGAGE INC.,
DEUTSCHE BANK NATIONAL TRUST
COMPANY, and MORGAN STANLEY ABS
CAPITAL I INC. TRUST,

Defendants.

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ORDER OF PARTIAL DISMISSAL

Plaintiffs filed this action against American Equity Mortgage, Inc., Deutsche Bank National Trust Company, and Morgan Stanley ABS Capital I Inc. Trust, alleging the following causes of action: Count I, violation of Truth in Lending Act, 15 U.S.C. § 1640 *et seq.*; Count II, quiet title; Count III, wrongful foreclosure; Count IV, to set aside trustee sale; Count V cancellation of trustee's deed; Count VI, slander of title; Count VII civil conspiracy; Count VIII violation of RICO, 18 U.S.C. § 1961 *et seq.*; Count IX, constructive trust; Count X, unenforceable attempt to enforce deed of trust; Count XI, wrongful conversion of trust; Count XII, lack of standing; Count XIII, securitization removes the status of noteholder; Count XIV, note and mortgage are unenforceable because the mortgagor never consented to the securitization; Count XV, no case of controversy; Count XVI, defaulted payments have been paid; and Count XVII, unenforceability of note and mortgage requires a constructive trust or mortgage trust.

Counts I and VIII give rise to federal question jurisdiction under 28 U.S.C. § 1331. The remainder of Plaintiffs' Complaint alleges causes of action based solely on state law. In order to avoid jury confusion, the court will decline to exercise supplemental jurisdiction over the state law claims. *See* 28 U.S.C. § 1367(c); *United Mine Workers v. Gibbs*, 383 U.S. 715 (1966); and *Padilla v. City of Saginaw*, 867 F. Supp. 1309 (E.D. Mich. 1994).

Accordingly, it is hereby **ORDERED** that Counts II, III, IV, V, VI, VII, IX, X, XI, XII, XIII, XIV, XV, XVI, and XVII are **DISMISSED**.

s/John Corbett O'Meara
United States District Judge

Date: February 8, 2011

I hereby certify that on February 8, 2011, a copy of this order was served upon the parties of record using the ECF system and/or by first-class U.S. mail.

s/William Barkholz
Case Manager