

JAN 17 2014

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**ROBERT M. SWEENEY,**

Plaintiff - Appellant,

v.

**AMERICAN HOME MORTGAGE  
SERVICING, INC.; POWER  
DEFAULT SERVICES, INC., a  
Delaware corporation; US BANK  
NATIONAL ASSOCIATION, As  
Trustee for MASTR Adjustable Rate  
Mortgages Trust 2007-1, Mortgage  
Pass-Through Certificates, Series 2007-1  
(esa US Bank, National Association and  
MASTR Adjustable Rate Mortgages  
Trust 2007-1, Mortgage Pass-Through  
Certificates, Series-1); MORTGAGE  
ELECTRONICS REGISTRATION  
SERVICES, INC., a Delaware  
corporation,**

Defendants - Appellees.

No. 12-55220

D.C. No. 2:11-cv-05098-GW-JEM

**MEMORANDUM\***

Appeal from the United States District Court  
for the Central District of California  
George H. Wu, District Judge, Presiding

Argued and Submitted January 8, 2014  
Pasadena, California

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: **KOZINSKI**, Chief Judge, **REINHARDT** and **CLIFTON**, Circuit Judges.

Although Plaintiff alleges that the Substitution of Trustee form designating Power Default Services as trustee was a forgery, the Second Amended Complaint (SAC) fails to plead critical elements of such a claim. “While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations.” Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009). Without any claim that the signatory lacked authority to sign the Substitution of Trustee form or that Defendants acted with an intent to defraud, the SAC fails to go beyond “labels and conclusions” and provide “[f]actual allegations . . . to raise a right to relief above the speculative level.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007).

The SAC is Plaintiff’s fourth filing to raise claims challenging the validity of the foreclosure. Because Plaintiff still falls short of stating a valid claim for relief, the district court did not abuse its discretion in concluding that the complaint cannot be saved by amendment and dismissing with prejudice. See Hearn v. San Bernardino Police Dep’t, 530 F.3d 1124, 1129 (9th Cir. 2008).

**AFFIRMED.**