

OCT 10 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KATHLEEN J. LYONS,

Plaintiff - Appellant,

v.

WILMINGTON TRUST COMPANY,
Wilmington Trust Company as Trustee for
the Structured Asset Securities
Corporation Mortgage Pass-Through
Certificates, 2004-15, its successors, and
or assigns; et al.,

Defendants - Appellees.

No. 12-55762

D.C. No. 2:11-cv-05346-ODW-
CW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright, II, District Judge, Presiding

Submitted September 23, 2014**

Before: W. FLETCHER, RAWLINSON, and CHRISTEN, Circuit Judges.

Kathleen J. Lyons appeals pro se from the district court's judgment

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissing her action alleging violations of the Fair Debt Collection Practices Act (“FDCPA”) and California law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court’s dismissal for failure to state a claim, *Cervantes v. Countrywide Home Loans Inc.*, 656 F.3d 1034, 1040 (9th Cir. 2011), and we affirm.

The district court properly dismissed Lyons’s action because Lyons failed to allege facts sufficient to state any cognizable claims for relief. *See id.* at 1040-41 (to avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face[;] [a] complaint that alleges only labels and conclusions or a formulaic recitation of the elements of the cause of action will not survive dismissal” (citations and internal quotation marks omitted)).

The district court did not abuse its discretion by dismissing Lyons’s second amended complaint without leave to amend after providing Lyons with an opportunity to amend and concluding that further amendment would be futile. *See id.* at 1041 (setting forth standard of review and explaining that leave to amend should be given unless amendment would be futile); *Chodos v. West Publ’g Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) (“[W]hen a district court has already granted a plaintiff leave to amend, its discretion in deciding subsequent motions to amend is

particularly broad.” (citation and internal quotation marks omitted)).

We reject Lyons’s contentions that the district court did not accept her allegations as true and that she was denied a right to a jury trial.

Appellees Wilmington Trust Company, CitiMortgage Inc., CR Title Services, Inc., and Five Star Service Corporation’s motion for judicial notice, filed on October 31, 2012, is denied as unnecessary.

Appellees Timm Delaney and Prudential California Realty’s request for joinder, set forth in their answering brief, is granted.

AFFIRMED.