

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 24 2015

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

AMAL GHANNAM GUSTAFSON, an
individual,

Plaintiff - Appellant,

v.

SUNTRUST MORTGAGE, INC., a
Virginia Corporation,

Defendant - Appellee.

No. 13-56270

D.C. No. 2:13-cv-01502-PSG-SH

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Argued and Submitted July 10, 2015
Pasadena, California

Before: W. FLETCHER, PAEZ, and BERZON, Circuit Judges.

Amal Gustafson appeals the district court's orders denying her motion to remand and dismissing her suit for failure to file a timely opposition. We have jurisdiction under 28 U.S.C. § 1291 and we affirm.

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

Gustafson first argues that the district court erred in denying her motion to remand her case to state court. We disagree. Fairly read, Gustafson’s state-court complaint stated that she sought “restitution ‘for all sums received by Defendant with respect to the mortgages, including, without limitation, interest payments, fees, and premiums received upon selling the mortgages at an inflated value.’” The district court did not err, on the basis of this language, in concluding that Gustafson placed in controversy the value of all the mortgage payments she had made to date, nor in concluding that that sum was over \$75,000.

Gustafson also argues that the district court abused its discretion in dismissing her suit for failure to file a timely opposition. We disagree. Although we agree that SunTrust was not materially prejudiced by Gustafson’s failure to file a timely opposition, and that other remedies might have been available, we will not reverse the district court’s dismissal for failure to comply with local rules without “a definite and firm conviction that the court below committed a clear error of judgment.” *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). Although the district court may have been somewhat overzealous in enforcing the local rules, we see no “clear error of judgment” here. *See Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995) (per curiam). Gustafson had previously violated a different local rule, which violation the district court had excused. Further, although the docket

indicates that Gustafson filed her opposition before the court's dismissal order was docketed, the text of that order makes clear that, at the time the court wrote the order, Gustafson had not responded to the motion to dismiss at all. Under these circumstances, the court acted within its discretion.

AFFIRMED.¹

¹ Defendants' Motions for Judicial Notice are hereby DENIED.