

FILED

FEB 28 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MELODY L. COCHRAN,

Plaintiff-Appellant,

v.

BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.; WESTERN
PROGRESSIVE, LLC; OCWEN LOAN
SERVICING, LLC,

Defendants-Appellees.

No. 15-56203

D.C. No.
2:15-cv-03209-GHK-JC

MEMORANDUM*

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

Argued and Submitted February 7, 2017
Pasadena, California

Before: SCHROEDER, PREGERSON, and MURGUIA, Circuit Judges.

Plaintiff-Appellant Melody Cochran appeals the district court's order dismissing her complaint, alleging violations of the Fair Debt Collection Practices Act ("FDCPA") and dependent state law claims. We have jurisdiction pursuant to

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

28 U.S.C. § 1291. We review de novo the district court’s dismissal under Federal Rule of Civil Procedure 12(b)(6). *Schlegel v. Wells Fargo Bank, NA*, 720 F.3d 1204, 1207 (9th Cir. 2013). We affirm.

The FDCPA only imposes liability when an entity is attempting to collect a debt. 15 U.S.C. § 1692(e). In her complaint, Cochran complains of Defendants-Appellees’ conduct related to the initiation of a nonjudicial foreclosure sale of her property, i.e., sending three pre-foreclosure notices. Such activity, which is required under California nonjudicial foreclosure laws, is not debt collection activity as defined by the FDCPA. *Ho v. ReconTrust*, 840 F.3d 618, 621 (9th Cir. 2016) (“[A]ctions taken to facilitate a non-judicial foreclosure, such as sending the notice of default and notice of sale, are not attempts to collect a ‘debt’ as that term is defined by the FDCPA.”). Therefore, we affirm the district court’s dismissal of the FDCPA claim and the dependent state law claims.

AFFIRMED. The issuance of the mandate in this case is **STAYED** pending the issuance of the mandate in *Ho v. ReconTrust*, No. 10-56884. The requests for judicial notice are **GRANTED**.