

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 3 2017

FOR THE NINTH CIRCUIT

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

CAROLINE BIRK,

Plaintiff-Appellant,

v.

ROYAL CROWN BANCORP, INC.; et al.,

Defendants-Appellees.

No. 16-16737

D.C. No. 2:15-cv-00446-KJM-  
CMK

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Kimberly J. Mueller, District Judge, Presiding

Submitted September 26, 2017\*\*

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Caroline Birk appeals pro se from the district court's judgment dismissing her action alleging federal and state law claims relating to her loan and a subsequent foreclosure. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii). *Barren v. Harrington*,

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

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

152 F.3d 1193, 1194 (9th Cir. 1998). We affirm.

The district court properly dismissed Birk's action as barred by the doctrine of res judicata because Birk's claims arose from the same transactional nucleus of facts and could have been raised in her prior action, which resulted in a final judgment. *See Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005) (setting forth elements for res judicata and requirements for identity of claims and final judgment on the merits).

Birk's challenge to the district court's denial of her motion for a temporary restraining order is moot. *See Mt. Graham Red Squirrel v. Madigan*, 954 F.2d 1441, 1450 (9th Cir. 1992) (when underlying claims have been decided, the reversal of a denial of preliminary injunctive relief would have no practical consequences, and the issue is therefore moot).

**AFFIRMED.**