

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 29 2019

FOR THE NINTH CIRCUIT

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

JOHN C. MANOS,

Plaintiff-Appellant,

v.

THE WOLF FIRM, A Law Corporation; et
al.,

Defendants-Appellees.

No. 18-55729

D.C. No. 8:18-cv-00138-JLS-JDE

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine L. Staton, District Judge, Presiding

Submitted May 21, 2019**

Before: THOMAS, Chief Judge, LEAVY and FRIEDLAND, Circuit Judges.

John C. Manos appeals from the district court's judgment dismissing his action alleging claims under the Fair Debt Collection Practices ("FDCPA"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6) for failure to state a claim, and we may affirm on any

* 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).

ground supported by the record. *Kwan v. SanMedica Int'l*, 854 F.3d 1088, 1093 (9th Cir. 2017). We affirm.

Dismissal of Manos's FDCPA claims against JPMorgan Chase Bank, N.A. was proper because Manos failed to allege facts sufficient to show that JPMorgan Chase was a debt collector rather than a creditor seeking to collect a debt on its own account. *See* 15 U.S.C. § 1692a(6)(F)(ii) (excluding from the definition of debt collector a creditor collecting debts on its own behalf); *Afewerki v. Anaya Law Grp.*, 868 F.3d 771, 779, n.1 (9th Cir. 2017) ("Under the FDCPA, a creditor collecting debts on its own behalf is not a 'debt collector.'"); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (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" (citation and internal quotation marks omitted)).

Dismissal of the FDCPA claims against Northwest Trustee Services, Inc. and RCO Legal, P.S. was proper because Manos failed to allege facts sufficient to state a plausible claim for relief. *See* 15 U.S.C. § 1692f(6) (prohibiting the taking of any nonjudicial foreclosure action without a present right to possession of the property claimed as collateral); *Obduskey v. McCarthy & Holtus, LLP*, 139 S. Ct. 1029, 1038 (2019) ("[B]ut for § 1692f(6), those who engage in only nonjudicial foreclosure proceedings are not debt collectors within the meaning of the [FDCPA]."); *Dowers v. Nationstar Mortg., LLC*, 852 F.3d 964, 970-971 (9th Cir.

2017) (explaining that “while the FDCPA regulates security interest enforcement activity, it does so only through Section 1692f(6)” and discussing protections for borrowers set forth in § 1692f(6) (emphasis omitted)); *see also Iqbal*, 556 U.S. at 678.

The district court did not abuse its discretion by declining to enter a default judgment against Northwest and RCO. *See Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) (listing factors that the district court may consider in exercising discretion as to the entry of a default judgment); *Aldabe v. Aldabe*, 616 F.2d 1089, 1092-93 (9th Cir. 1980) (explaining that the district court does not abuse its discretion in declining to enter a default judgment where substantive claims lack merit).

AFFIRMED.