

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 24 2023

FOR THE NINTH CIRCUIT

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

DEBRA LYNN TONER,

No. 22-16012

Plaintiff-Appellant,

D.C. No. 5:22-cv-01946-NC

v.

MEMORANDUM\*

U.S. BANK, N.A., as Trustee, Successor in  
Interest to Bank of America, National  
Association as Successor by Merger to  
Lasalle Bank, N.A. as Trustee for  
Washington Mutual Mortgage Pass-Through  
Certificates WMALT Seres 2006-AR9,

Defendant-Appellee.

Appeal from the United States District Court  
for the Northern District of California  
Nathanael M. Cousins, Magistrate Judge, Presiding\*\*

Submitted July 18, 2023\*\*\*

Before: SCHROEDER, RAWLINSON, and BADE, Circuit Judges.

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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 parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c). We reject as meritless Toner's challenge to the magistrate judge's jurisdiction.

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

Debra Lynn Toner appeals pro se from the district court's judgment dismissing her civil action against U.S. Bank, N.A. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Puri v. Khalsa*, 844 F.3d 1152, 1157 (9th Cir. 2017) (dismissal under Federal Rule of Civil Procedure 12(b)(6)); *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)); *Irwin v. Mascott*, 370 F.3d 924, 929 (9th Cir. 2004) (magistrate judge jurisdiction). We affirm.

The district court properly dismissed Toner's action for lack of standing because Toner quitclaimed her interest in the property and failed to allege any rights under the mortgage. *See* Fed. R. Civ. P. 17(a) ("An action must be prosecuted in the name of the real party in interest."); Cal. Code. Civ. P. § 367 (same); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) ("[U]nder Fed. R. Evid. 201, a court may take judicial notice of 'matters of public record.'"); *Jenkins v. JP Morgan Chase Bank, N.A.*, 156 Cal. Rptr. 3d 912, 931 (Ct. App. 2013) (private standing under California's Business and Professions Code); *Chao Fu, Inc. v. Chen*, 141 Cal. Rptr. 3d 381, 389 (Ct. App. 2012) (standing in quiet title and cancellation of instrument actions).

Contrary to Toner's contention, the district court did not improperly combine its screening review with consideration of defendant's Rule 12(b)(6) motion. *See Watison*, 668 F.3d at 1112 (standards for § 1915 screening and

Rule 12(b)(6) motions are the same).

**AFFIRMED.**