

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 25 2022

FOR THE NINTH CIRCUIT

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

YESENIA DEL TORO,

No. 22-55078

Plaintiff-Appellant,

D.C. No. 2:21-cv-01216-JAK-JPR

v.

MEMORANDUM\*

360 PARTNERSHIP LP; HAIRAPETAIN  
PROPERTIES, INC.; VICTOR  
HAIRAPENTIAN; ALBERT  
HAIRAPENTIAN; FIRST AMERICAN  
TITLE INSURANCE CO.; FIRST  
AMERICAN TRUSTEE SERVICING, LLC;  
JOSE BUENO; TAMMY ROSSUM,

Defendants-Appellees.

Appeal from the United States District Court  
for the Central District of California  
John A. Kronstadt, District Judge, Presiding

Submitted November 15, 2022\*\*

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Yesenia Del Toro appeals pro se from the district court's order denying her

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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).

Federal Rule of Civil Procedure 60(b) motion for relief from the court's judgment dismissing her action alleging various federal and state law claims arising out of her home's foreclosure. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Valdivia v. Schwarzenegger*, 599 F.3d 984, 988 (9th Cir. 2010). We affirm.

The district court did not abuse its discretion in denying Del Toro's Rule 60(b) motion because Del Toro presented no basis for post-judgment relief. *See* Fed. R. Civ. P. 60(b); *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004) (stating that to prevail under Rule 60(b)(3), the "moving party must prove by clear and convincing evidence" that judgment was obtained through fraud, misrepresentation, or other misconduct that was not "discoverable by due diligence before or during the proceedings" (citation and internal quotation marks omitted)); *Straw v. Bowen*, 866 F.2d 1167, 1172 (9th Cir. 1989) (noting that to prevail under Rule 60(b)(1), the moving party must show that the district court committed a specific error)

We reject as meritless Del Toro's contentions the district court erred by allowing defendants to not strictly observe local meet and confer rules and by dismissing her action without leave to amend. *See All. of Nonprofits for Ins., Risk Retention Grp. v. Kipper*, 712 F.3d 1316, 1327 (9th Cir. 2013) (holding departures from local rules warrant reversal only if they affect "substantial rights"); *Cervantes*

*v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (explaining that dismissal without leave to amend is proper when amendment would be futile).

Del Toro's request to strike the answering brief, set forth in the reply brief, is denied.

**AFFIRMED.**