

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Karen Day Crosby,
Plaintiff,
vs.
Cal-Western Reconveyance Corporation;
et al.,
Defendants.

No. CV10-1202-PHX-NVW

ORDER

Before the Court are Plaintiff’s Motion for an Order to Cease and Desist Foreclosure Proceedings; Defendants[’] Motion to Dismiss, Motions for Sanctions and Motion to Preclude Further Filings by Plaintiff; Motion to Dismiss Plaintiff’s Complaint; and State Defendants’ Motion to Dismiss. (Docs. 6, 7, 8, 10, 17.) No responses have been filed.

Defendants’ Motion to Dismiss (Doc. 7) by Aegis Mortgage Corporation, Cal-Western Reconveyance Corporation, Aurora Loan Servicing, Mortgage Electronic Registration Systems, Inc., McCarthy, Holthus & Levine and Paul M. Levine will be granted with prejudice because Plaintiff is barred from relitigating claims that were raised or could have been raised in her state court action against the same Defendants upon which final judgment has been entered. *Cell Therapeutics, Inc. v. Lash Group, Inc.*, 586 F.3d 1204, 1212 (9th Cir. 2009).

1 Defendants' Motion for Sanctions under Fed. R. Civ. P. 11 will be denied because
2 they did not show that they complied with the grace period of Rule 11.

3 Defendants' Motion to Preclude Future Filings by Plaintiff will be denied because
4 this lawsuit is Plaintiff's first improper filing. However, any similar future filings likely
5 will result in both sanctions and an injunction against Plaintiff.

6 The Motion to Dismiss (Doc. 10) by Defendants Pinal County Recorder, Laura
7 Dean-Lytle, and Pinal County Sheriff, Paul Babeau, will be granted with prejudice for
8 failure to state a claim upon which relief can be granted. Any attempt to cure by
9 amendment would be futile.

10 The State Defendants' Motion to Dismiss (Doc. 17) by the Honorable Robert
11 Carter Olson and the Honorable Gilbert V. Figueroa will be granted with prejudice
12 because judges are absolutely immune from civil liability for damages for their judicial
13 acts. *Mireles v. Waco*, 502 U.S. 9, 11-12, 112 S. Ct. 286, 288 (1991).

14 Because Plaintiff's Complaint will be dismissed with prejudice as to all
15 Defendants, Plaintiff's Motion for an Order to Cease and Desist Foreclosure Proceedings
16 (Doc. 6) will be denied as moot.

17 IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss (Doc. 7) by
18 Aegis Mortgage Corporation, Cal-Western Reconveyance Corporation, Aurora Loan
19 Servicing, Mortgage Electronic Registration Systems, Inc., McCarthy, Holthus & Levine
20 and Paul M. Levine is granted, dismissing the Complaint with prejudice as to these
21 Defendants as *res judicata*.

22 IT IS FURTHER ORDERED that Defendants' Motion for Sanctions under Fed. R.
23 Civ. P. 11 (Doc. 8) is denied.

24 IT IS FURTHER ORDERED that Defendants' Motion to Preclude Future Filings
25 by Plaintiff (Doc. 7) is denied.

26 IT IS FURTHER ORDERED that Motion to Dismiss (Doc. 10) by Defendants
27 Pinal County Recorder, Laura Dean-Lytle, and Pinal County Sheriff, Paul Babeau, is
28

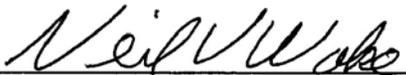
1 granted, dismissing the Complaint with prejudice as to these Defendants for failure to
2 state a claim upon which relief can be granted.

3 IT IS FURTHER ORDERED that the State Defendants' Motion to Dismiss (Doc.
4 17) by the Honorable Robert Carter Olson and the Honorable Gilbert V. Figueroa will be
5 granted, dismissing the Complaint with prejudice as to these Defendants under the
6 doctrine of judicial immunity.

7 IT IS FURTHER ORDERED that Plaintiff's Motion for an Order to Cease and
8 Desist Foreclosure Proceedings (Doc. 6) is denied as moot.

9 IT IS FURTHER ORDERED the Clerk shall enter Judgment in favor of
10 Defendants and against Plaintiff. The Clerk shall terminate this case.

11 DATED this 23rd day of July, 2010.

12
13 
14 _____
Neil V. Wake
United States District Judge

15
16
17
18
19
20
21
22
23
24
25
26
27
28