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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Dena Pope,

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CV 11-02050-PHX-FJM

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Plaintiff,

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**ORDER**

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vs.

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Aegis Wholesale Corp.; U.S. Bank NA,  
solely as trustee for the Certificate Holders  
of Maiden Lane Trust, Asset-Backed  
Securities 1, Series 2007; Nationstar  
Mortgage LLC; BlackRock Financial  
Management Inc.; Federal Reserve Bank  
of New York,

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Defendants.

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The court has before it defendants U.S. Bank, Nationstar Mortgage, BlackRock  
Financial Management, and the Federal Reserve Bank of New York's ("the Nationstar  
defendants") motion to dismiss (doc. 5). Plaintiff did not respond to the motion, and the time  
for filing a response has expired. Defendant Aegis Wholesale ("Aegis") did not join in the  
motion to dismiss and has not appeared in any proceedings before this court.

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Plaintiff's forty-five page complaint is densely-worded and appears to contain few  
concrete facts. It alleges that plaintiff executed a Deed of Trust in 2007 for her residence in  
the amount of \$419,000. Aegis was listed as the lender. Her loan was securitized in 2008.  
A Notice of Trustee's Sale for plaintiff's property was issued June 9, 2011, setting the sale  
for September 12, 2011. The sale has not been held.

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1 This action was originally filed in the Superior Court of Arizona in Maricopa County  
2 on September 9, 2011 (doc. 1, ex. A). The complaint asserts twelve "counts," which contain  
3 multiple legal theories. For example, count eight is styled

4 [b]reach of Contract - Failure of the original lender to Transfer or to Assign  
5 respectively either the Note or the Deed of Trust to US Bank National  
6 Association as Trustee for the Investors in the Mortgage Backed Security and  
7 the Defendants' lack of authority to vary the terms of Plaintiff's loan by  
8 agreement as a result of the securitization of the loan and the involvement of  
9 MERS in this series of transactions

10 Compl. at 34. In essence, plaintiff complains that U.S. Bank has not proved that it possessed  
11 the note on plaintiff's property at the time that the trustee's sale was noticed. Plaintiff  
12 concludes that U.S. Bank cannot enforce the note and cannot proceed with a trustee's sale on  
13 her property. The Nationstar defendants timely removed to this court and filed the instant  
14 motion.

15 The Nationstar defendants argue that plaintiff's complaint violates Rule 8(a)(2), Fed.  
16 R. Civ. P., because it fails to contain "a short and plain statement of the claim showing that  
17 the pleader is entitled to relief." Defendants argue that plaintiff's forty-five page complaint  
18 "consists almost entirely of confusing legal conclusions and convoluted theories about the  
19 manner in which foreclosure sales should be conducted, each of which is contrary to the  
20 settled law of this state." Mot. to Dismiss at 4. Because plaintiff failed to respond to the  
21 motion to dismiss, we grant it summarily. See LRCiv 7.2(i) ("if. . . counsel does not serve  
22 and file the required answering memoranda. . . such non-compliance may be deemed a  
23 consent to the denial or granting of the motion and the Court may dispose of the motion  
24 summarily"). We agree with defendants that the lengthy and confusing complaint violates  
25 Rule 8(a), Fed. R. Civ. P.

26 Defendants argue that based on their interpretation of plaintiff's claims, the complaint  
27 should be dismissed with prejudice as amendment would be futile. Given the prolixity of the  
28 complaint and plaintiff's silence, it is difficult to tell whether amendment could cure any of  
plaintiff's claims. However, given plaintiff's failure to respond, we grant the Nationstar  
defendants' motion to dismiss her complaint with prejudice.

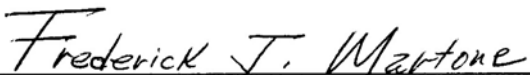
1 Aegis has not yet appeared. It is unclear whether Aegis has been served.  
2 Nevertheless, our conclusion that the complaint violates Rule 8(a) renders the legal result as  
3 to this defendant the same. See Abagninin v. AMVAC Chem. Corp., 545 F.3d 733, 742-43  
4 (9th Cir. 2008). However, we dismiss the complaint against Aegis without prejudice.

5 **IT IS ORDERED GRANTING** defendants U.S. Bank NA, Nationstar Mortgage  
6 LLC, BlackRock Financial Management Inc., and the Federal Reserve Bank of New York's  
7 motion to dismiss (doc. 5). The complaint is dismissed against these defendants with  
8 prejudice.

9 **IT IS FURTHER ORDERED DISMISSING** the complaint against defendant Aegis  
10 Wholesale Corp. without prejudice.

11 The Clerk shall enter judgment.

12 DATED this 17<sup>th</sup> day of November, 2011.

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Frederick J. Martone  
16 United States District Judge  
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