

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LYDIA ORDAZ,  
Plaintiff,  
v.  
BANK OF AMERICA, N.A., et al.,  
Defendants.

No. 2:14-cv-00564-MCE-KJN

**ORDER**

On February 26, 2014, Lydia Ordaz (“Plaintiff”) filed a complaint against Bank of America, N.A. (“Bank of America”); The Bank of New York Mellon, fka The Bank of New York as Trustee for the Certificate Holders of CWABS 2004-BC1 (“Mellon”); ReconTrust Company, N.A. (“ReconTrust”); and Encore Credit Corporation (“Encore”) (collectively “Defendants”). ECF No. 1. On August 11, 2014, Bank of America, Mellon, and ReconTrust moved to dismiss the complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 8. In violation of Eastern District Local Rule 78-230(c), Plaintiff failed to file an opposition or statement of non-opposition to the motion. Accordingly, the Court granted the motion to dismiss with leave to amend. ECF No. 15. The Court also dismissed with leave to amend Plaintiff’s claims against Encore, which had neither appeared nor challenged the pleadings. Id. (citing Abagninini v. AMVAC Chemical Corp., 545 F.3d 733, 742-42 (9th Cir. 2008)).

1 On October 21, 2014, Plaintiff timely filed the operative First Amended Complaint  
2 against the same four defendants. ECF No. 16. Bank of America, Mellon, and  
3 ReconTrust again filed a Rule 12(b)(6) Motion to Dismiss (“Motion”), ECF No. 20, as well  
4 as a request that the Court take judicial notice of a trustee’s deed upon sale, ECF  
5 No. 18. Plaintiff did not file an opposition or statement of non-opposition to the Motion  
6 and thus once again has violated Local Rule 78-230(c).

7 Because oral argument would not assist the Court, the matter was submitted on  
8 the briefs pursuant to Local Rule 230(g), and the December 18, 2014, hearing was  
9 vacated. ECF No. 23. In light of Plaintiff's failure to file an opposition, the Motion to  
10 Dismiss, ECF No. 20, is GRANTED. Moreover, because Plaintiff twice has failed to  
11 oppose a Rule 12(b)(6) motion to dismiss, her claims against all Defendants are  
12 DISMISSED WITHOUT LEAVE TO AMEND. The Request for Judicial Notice, ECF  
13 No. 18, is DENIED AS MOOT.

14 || IT IS SO ORDERED.

15 | Dated: December 22, 2014

  
MORRISON C. ENGLAND, JR. CHIEF JUDGE  
UNITED STATES DISTRICT COURT