

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

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

MELISSA BIALLA,

Plaintiff,

v.

BANK OF AMERICA, N.A.,
et al.,

Defendants.

No. C 12-0262 PJH

**ORDER GRANTING MOTION
 TO DISMISS**

Pro se plaintiff Melissa Bialla ("plaintiff") filed this action on January 18, 2012, against defendants Bank of America, N.A. and Recontrust Company, N.A. (collectively "defendants").¹ On March 27, 2012, defendants filed a motion to dismiss the complaint. Plaintiffs did not file an opposition to the motion within the time required under the Civil Local Rules. Because the court finds that oral argument is unnecessary and would not be helpful, the hearing date of May 16, 2012 is VACATED pursuant to Civil Local Rule 7-1(b). For the reasons stated below, defendants' motion to dismiss is GRANTED.

The complaint is dismissed because it is incomprehensible and unintelligible. The court finds that plaintiffs have failed to assert "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Dismissal under Federal Rule of Civil Procedure is appropriate because the indecipherable allegations of the complaint lack any cognizable legal theory or sufficient facts to support a cognizable

¹ Although Jeffrey-Thomas Smith is also named as a plaintiff in the caption of the complaint, Mr. Smith is not listed as a plaintiff on the docket, nor does he appear to be referenced in the body of the complaint. To the extent Mr. Smith does intend to proceed as a plaintiff in this case, he must correct the docket in this action, and furthermore appear in the action by signing any papers submitted to the court and served on defendants.

1 legal theory. See Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

2 The dismissal is with leave to amend. No later than May 21, 2012, plaintiffs may file
3 an amended complaint that comports with the requirements of the Federal Rules of Civil
4 Procedure and the Civil Local Rules of this court. The amended complaint must allege a
5 basis for jurisdiction in this court; must state facts supporting the elements of the causes of
6 action; must allege cognizable causes of action, which must be set forth in separate
7 paragraphs; must specify which causes of action are asserted against which defendants;
8 and must be presented in the required format, as set forth in Civil Local Rule 3-4.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: April 20, 2012



PHYLLIS J. HAMILTON
United States District Judge