

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

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

RACHEL BURD,

Plaintiff,

v.

BANK OF NEW YORK MELLON,

Defendant.

Case No. 2:13-CV-00705-KJD-NJK

**ORDER**

Before the Court is Defendant Bank of New York Mellon's ("Defendant") Motion to Dismiss (#14). Plaintiff Rachel Burd responded (#17) and Defendant replied (#18).

**I. Procedural History**

On June 12, 2013, this Court dismissed Plaintiff's claims under Federal Rule of Civil Procedure 12(b)(6), but granted Plaintiff leave to file an amended complaint which "satisfies the particularity requirement of Federal Rule of Civil Procedure 9(b) or a wrongful foreclosure claim that fulfills the plausibility standard outlined by Twombly." (#11). In short, because of Plaintiff's pro se status, the Court explicitly outlined the standards and elements required, explained why Plaintiff failed to meet those standards and elements, and then gave Plaintiff the opportunity to file an amended complaint. Plaintiff then filed her First Amended Complaint (#13).

///

1 II. Analysis

2 Plaintiff either will not or cannot satisfy the pleading requirements under either Federal Rule  
3 of Civil Procedure 8 or 9. In fact, Plaintiff insists on using Rule 8 as the relevant standard, despite the  
4 Court's lengthy explanation as to why Rule 9 governs her misrepresentation claims. Having already  
5 exhaustively explained the standards and elements required in its previous Order (#11), the Court  
6 declines to do so again. Plaintiff's complaint has changed little, and wholly fails to meet the  
7 standards articulated by the Court for the same reasons set out in the Court's previous Order (#11).

8 III. Conclusion

9 Defendant's Motion to Dismiss (#14) is **HEREBY GRANTED.**

10 DATED this 17th day of September 2013.

11  
12 

13 \_\_\_\_\_  
14 Kent J. Dawson  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26