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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

FRANK ARANT,

Plaintiff,

v.

JPMORGAN CHASE BANK, CHASE HOME FINANCE, LLC., EXPRESS CAPITAL LENDING, INC., EMC MORTGAGE LLC, NATIONAL DEFAULT SERVICING CORPORATION, SELECT PORTFOLIO SERVICING, INC., BLACK AND WHITE CORPORATIONS DOES 1-10,

Defendants.

Case No. 2:14-cv-0386-MMD-VCF

ORDER

(Def.'s Motion to Dismiss - dkt. no. 26)

I. SUMMARY

Before the Court is Defendants Select Portfolio Servicing Inc. ("SPS") and National Default Servicing Corporation's ("NDS") Motion to Dismiss ("Motion"). (Dkt. no. 26.) For the reasons discussed below, the Motion is granted.

II. BACKGROUND

At the outset, the Court notes that Plaintiff's Complaint is unclear on much of the facts supporting his claims. The Court thus relies on the Motion to obtain the relevant background facts. From these sources, this case appears to involve Plaintiff's default on a loan and the corresponding foreclosure proceedings on a property in Clark County, Nevada, located at 8117 Chiltern Avenue in Las Vegas ("the Property").

1 To finance the purchase of the Property, Plaintiff executed a Deed of Trust and
2 Note for \$218,400.00. After a series of assignments, the Deed of Trust was recorded by
3 JP Morgan Chase Bank, N.A. (“JPMorgan”) on August 13, 2013. (Dkt. no. 26 at 3.)

4 The parties allude to the fact that Plaintiff defaulted on his loan and that non-
5 judicial foreclosure proceedings were initiated. Again, the Court notes the scarcity of
6 facts provided by the Complaint and by the parties.

7 **III. LEGAL STANDARD**

8 A court may dismiss a plaintiff’s complaint for “failure to state a claim upon which
9 relief can be granted.” Fed. R. Civ. P. 12(b)(6). A properly pleaded complaint must
10 provide “a short and plain statement of the claim showing that the pleader is entitled to
11 relief.” Fed. R. Civ. P. 8(a)(2); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).
12 The Rule 8 notice pleading standard requires Plaintiff to “give the defendant fair notice of
13 what the . . . claim is and the grounds upon which it rests.” *Twombly*, 550 U.S. at 555
14 (citation and internal quotation marks omitted). While Rule 8 does not require detailed
15 factual allegations, it demands more than “labels and conclusions” or a “formulaic
16 recitation of the elements of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
17 (2009) (*quoting Twombly*, 550 U.S. at 555). “Factual allegations must be enough to raise
18 a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. When
19 determining the sufficiency of a claim, “[w]e accept factual allegations in the complaint as
20 true and construe the pleadings in the light most favorable to the non-moving party[;
21 however, this tenet does not apply to] . . . legal conclusions . . . cast in the form of factual
22 allegations.” *Fayer v. Vaughn*, 649 F.3d 1061, 1064 (9th Cir. 2011) (citation and internal
23 quotation marks omitted). Thus, “[t]o survive a motion to dismiss, a complaint must
24 contain sufficient factual matter, accepted as true, to state a claim to relief that is
25 plausible on its face.” *Iqbal*, 556 U.S. at 678 (citation and internal quotation marks
26 omitted).

27 Federal civil pleading is notice pleading. *E.g.*, *Starr v. Baca*, 652 F.3d 1202, 1212-
28 16 (9th Cir. 2011). The notice pleading requirements of Rule 8(a) can be violated not

1 only “when a pleading says *too little*,” but also “when a pleading says *too much*.” *Knapp*
2 *v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013), *cert. denied*, 135 S. Ct. 57 (Oct. 6,
3 2014); *see also McHenry v. Renne*, 84 F.3d 1172, 1179-80 (9th Cir.1996) (affirming a
4 dismissal under Rule 8, and recognizing that “[p]rolix, confusing complaints such as the
5 ones plaintiffs filed in this case impose unfair burdens on litigants and judges”).

6 **IV. DISCUSSION**

7 The Court concludes that the Complaint says far too much and does so
8 unnecessarily. First, the Complaint is replete with generalized allegations of the
9 transgressions committed by JPMorgan. (Dkt. no. 1 ¶¶ 21(a-r).) Plaintiff generally
10 alleges that Defendants SPS and NDS are responsible for the misdeeds of JPMorgan;
11 however, Plaintiff fails to provide any support for this contention, but rather offers the
12 conclusory allegation that “[e]ach of the corporate defendants are agents of each other
13 and are legally responsible for the acts of omissions of each other.” (*Id.* ¶ 12.)

14 Moreover, even if the Court were to assume that SPS and NDS are agents of
15 JPMorgan, Plaintiff fails to provide any factual support for what JPMorgan did with
16 respect to his loan so as to impose liability upon these two entities. The Complaint is
17 disjointed, confusing, and fails to provide any factual allegations that would support any
18 plausible claims against Defendants SPS and NDS.

19 Accordingly, the Court concludes that the allegations made in Plaintiff’s Complaint
20 fail to satisfy the notice pleading requirements of Rule 8(a) and do not support claims
21 against either Defendants. Plaintiff is granted leave to file an amended complaint that
22 provides “a short and plain statement of the claim showing” Plaintiff “is entitled to relief.”
23 Fed. R. Civ. P. 8(a)(2).

24 **V. CONCLUSION**


25 It is therefore ordered that Defendants’ Motion to Dismiss (dkt. no. 26) is granted.
26 It is further ordered that Plaintiff may file an amended complaint within twenty (20)
27 days. Failure to file an amended complaint will result in dismissal of Plaintiff’s claims

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against Defendants SPS and NDS with prejudice. It is further ordered the Defendants' Motion for a Hearing or Ruling (dkt. no. 40) is denied as moot.

DATED THIS 22nd day of December 2014.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE