UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Jose R. Solano v. PHH Mortgage Corporation, Western Progressive, LLC, HSBC Bank USA, N.A., as Trustee for the Registered Holders of Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2006-HE3, and Ocwen Loan Servicing, LLC

Solano v. PHH Mortgage Corp. · No. 2:24-cv-00281-MEMF-AJR · Decided September 4, 2025

SUMMARY

The United States District Court for the Central District of California grants defendants' request for judicial notice and motion to dismiss, and denies plaintiff's motion to consolidate. The court dismisses Jose R. Solano's claims arising from an alleged fraudulent and wrongful foreclosure, including claims under the FDCPA, FHA, RICO, and other state and federal laws. The court concludes that several claims were improperly added without leave to amend, while other claims are barred by the applicable statutes of limitations or inadequately pleaded.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Maame Ewusi-Mensah Frimpong
JURISDICTION	United States District Court for the Central District of California
DECIDED	September 4, 2025
DOCKET	2:24-cv-00281-MEMF-AJR
DISPOSITION	dismissed
PROCEDURAL POSTURE	After granting Solano leave to amend several claims, the district court considered the defendants' motion to dismiss the First Amended Complaint, the defendants' request for judicial notice, and Solano's motion to consolidate this action with another action.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and views them in the light most favorable to the plaintiff, but does not accept legal conclusions couched as factual allegations. The complaint must contain sufficient factual matter to state a facially plausible claim. Fraud allegations must satisfy Rule 9(b)'s particularity requirement.

PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Jose R. Solano v. PHH Mortgage Corporation, Western Progressive, LLC, HSBC Bank USA, N.A., as Trustee for the Registered Holders of Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2006-HE3, Ocwen Loan Servicing, LLC

TOPICS

motions to dismiss · statute of limitations · wrongful foreclosure · civil procedure · consumer protection

PRACTICE AREAS

civil procedure · real estate litigation · consumer protection · mortgage foreclosure · federal jurisdiction

QUESTIONS PRESENTED

1. Whether the court could take judicial notice of the defendants' public-record exhibits and, if so, whether judicial notice extended to the truth of disputed facts in those records.
2. Whether claims newly added to the First Amended Complaint without leave to amend should be dismissed.
3. Whether Solano's foreclosure-related and related claims were barred by the applicable statutes of limitations.
4. Whether the FDCPA claims based on nonjudicial foreclosure and alleged failures to validate or disclose the debt stated a claim.
5. Whether the FHA claim adequately pleaded discrimination and was otherwise timely.
6. Whether consolidation was appropriate where the other action had been dismissed and judgment had been entered.

HOLDINGS

1. The court may judicially notice undisputed matters of public record, including the existence and contents of recorded documents and court records, but may not judicially notice disputed factual assertions contained in those records as true.
2. A plaintiff may not add entirely new claims in an amended complaint when the court granted leave only to cure deficiencies in specified existing claims; claims added without the required leave may be dismissed.
3. Solano's foreclosure-related claims, including claims predicated on alleged fraud in the assignment, foreclosure notices, foreclosure sale, and related instruments, were time-barred because he knew or should have known of defendants' asserted interests and foreclosure intentions years before filing suit.
4. Solano's civil RICO claim was barred by the four-year statute of limitations because he knew or should have known of the injury underlying the claim more than four years before filing suit.

5. The FDCPA claims based on nonjudicial foreclosure failed because enforcement of a security interest through nonjudicial foreclosure is not an attempt to collect money from the debtor within the relevant FDCPA framework. The claims based on failure to disclose or validate the debt also failed because the attached debt-validation notice refuted the allegations and Solano did not allege that he disputed the debt as required.
6. Solano failed to state an FHA claim because his allegations did not provide sufficient factual detail under Rule 8 and did not plausibly allege that defendants acted because of his race or national origin.
7. Consolidation was unwarranted because the proposed related action had already been dismissed without leave to amend and judgment had been entered, while this action was also being dismissed against the served defendants.

KEY QUOTATIONS

> *"However, as Defendants correctly argue, non-judicial foreclosure does not fall within the ambit of the FDCPA."* (at 26–28)

> *"The Court finds that Solano was on notice of Defendants' interest in his loan and Defendants intention to foreclose the property long before the issuance of the December 2023 Notice of Trustee's Sale that he points to in his claims."* (at 19–20)

FACTUAL BACKGROUND

Solano owned a Los Angeles condominium purchased with a loan secured by a deed of trust. He alleged that the defendants lacked a valid assignment of the note and deed of trust, nevertheless pursued nonjudicial foreclosure, recorded allegedly fraudulent foreclosure notices, and caused the property to be transferred and Solano to be evicted. He asserted claims involving fraudulent and wrongful foreclosure, the FDCPA, the FHA, fraudulent conveyance, cancellation of instruments, unjust enrichment, negligent misrepresentation, fraud, RICO, civil conspiracy, TILA, and declaratory relief.

PROCEDURAL HISTORY

Solano filed the action on January 11, 2024. The court partially granted defendants' first motion to dismiss on February 5, 2025, and granted Solano leave to amend. Solano filed the First Amended Complaint on March 6, 2025. The court granted judicial notice of defendants' public-record exhibits, granted the motion to dismiss all claims against the served defendants without leave to amend, and denied consolidation with a separate action that had already been dismissed and closed.

DISPOSITION

dismissed

CASES CITED

- Lee v. City of Los Angeles, 250 F.3d 668, 679, 689–90 (9th Cir. 2001)
- Galbraith v. County of Santa Clara, 307 F.3d 1119, 1125–26 (9th Cir. 2002)

- United States v. Corinthian Colleges, 655 F.3d 984, 998–99 (9th Cir. 2011)
- Marder v. Lopez, 450 F.3d 445, 448 (9th Cir. 2006)
- Swartz v. KPMG LLP, 476 F.3d 756 (9th Cir. 2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Park v. Thompson, 851 F.3d 910, 918 (9th Cir. 2017)
- Vess v. Ciba-Geigy Corp. USA, 317 F.3d 1097, 1106 (9th Cir. 2003)
- Neubronner v. Milken, 6 F.3d 666, 672 (9th Cir. 1993)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Fox v. Ethicon Endo-Surgery, Inc., 110 P.3d 914, 920 (Cal. 2005)
- Agency Holding Corp. v. Malley-Duff & Assocs., 483 U.S. 143, 156 (1987)
- Pincay v. Andrews, 238 F.3d 1106, 1109 (9th Cir. 2001)
- Grimmett v. Brown, 75 F.3d 506, 510 (9th Cir. 1996)
- North Star Steel Co. v. Thomas, 515 U.S. 29, 31 (1995)
- Maguire v. Hibernia Sav. & Loan Soc., 146 P.2d 673, 681 (Cal. 1944)
- Obduskey v. McCarthy & Holthus LLP, 586 U.S. 466, 474–79 (2019)
- Barnes v. Routh Crabtree Olsen PC, 963 F.3d 993, 998 (9th Cir. 2020)
- Byrd v. Phoenix Police Dep't, 885 F.3d 639, 642 (9th Cir. 2018)