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**MEMORANDUM* OPINION
U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT
(AUGUST 30, 2023)**

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

TERI SAHM,

Plaintiff-Appellant,

v.

SELECT PORTFOLIO SERVICING, INC.,

Defendant-Appellee.

No. 22-35490

D.C. No. 2:22-cv-00165-JHC

**Appeal from the United States District Court for the
Western District of Washington John H. Chun,
District Judge, Presiding**

Submitted August 15, 2023**

**Before: TASHIMA, S.R. THOMAS, and FORREST,
Circuit Judges.**

*** This disposition is not appropriate for publication and is not
precedent except as provided by Ninth Circuit Rule 36-3.**

**** The panel unanimously concludes this case is suitable for
decision without oral argument. See Fed. R. App. P. 34(a)(2).**

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Teri Sahm appeals pro se from the district court's judgment dismissing her action alleging various violations of federal law and the U.S. Constitution. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Vega v. United States*, 881 F.3d 1146, 1152 (9th Cir. 2018). We affirm.

The district court properly dismissed Sahm's action because Sahm failed to allege facts sufficient to state any plausible claim. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" (citation and internal quotation marks omitted)); *Somers v. Apple, Inc.*, 729 F.3d 953, 960 (9th Cir. 2013) (determining dismissal "under Rule 12(b)(6) is proper when the complaint either (1) lacks a cognizable legal theory or (2) fails to allege sufficient facts to support a cognizable legal theory").

We do not consider matters not specifically and distinctly raised and argued in the opening brief. See *Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We do not consider documents not filed with the district court. See *United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) ("Documents or facts not presented to the district court are not part of the record on appeal.").

AFFIRMED.

**ORDER GRANTING MOTION TO DISMISS,
U.S. DISTRICT COURT FOR THE WESTERN
DISTRICT OF WASHINGTON
(JUNE 2, 2022)**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERI KEALOHA SAHM,

Plaintiff,

v.

SELECT PORTFOLIO SERVICING, INC.,

Defendant.

Case No. 2:22-cv-00165-JHC

Before: John H. CHUN,
United States District Judge.

I. Introduction

This matter comes before the Court on Defendant Select Portfolio Servicing, Inc.'s motion to dismiss ("Motion"). Dkt. # 28. Plaintiff Teri Kealoha Sahm does not respond to the Motion. Having reviewed the Motion and related filings, the Court GRANTS the Motion and dismisses this matter without prejudice.

II. Background

In April 2004, Sahm allegedly executed a promissory note and a deed of trust encumbering the property at issue (“Property”). Declaration of Midori Sagara (“Sagara Decl.”), Dkt. # 26, Ex. B at 19-40. In April 2019, she allegedly defaulted, and Select Portfolio Servicing initiated nonjudicial foreclosure proceedings. *Id.* at 8-10.

In March 2020, Plaintiff sued 133 defendants in this Court over the foreclosure. Sagara Decl., Dkt. # 27, Ex. E. Chief Judge Martinez issued an order to show cause requesting Sahm explain her claims. Sagara Decl., Dkt. # 27, Ex. F. Sahm filed a response alleging fraud and robosigning. Sagara Decl., Dkt. # 27, Ex. G. Under 28 U.S.C. § 1915(e)(2)(B), Chief Judge Martinez dismissed her complaint for failing to state a claim. Sagara Decl., Dkt. # 27, Ex. H.

In January 2022, the Property was sold to a third party at a trustee’s foreclosure sale. Sagara Decl., Dkt. # 27, Ex. C at 7-8. In March 2022, the third party who bought the Property brought an unlawful detainer action against Sahm in King County Superior Court. Sagara Decl., Dkt. # 27, Ex. I. Sahm responded by alleging fraud. Sagara Decl., Dkt. # 27, Ex. J. Following a hearing, a commissioner of the court entered a writ of restitution. Sagara Decl., Dkt. # 27, Ex. C at 25.

Sahm brings this action, alleging violations of seven statutes¹ and Article IV of the United States Constitution. Compl., Dkt. # 1. In the statement of

¹ 15 U.S.C. §§ 1692-1692p, 18 U.S.C. § 241, 18 U.S.C. § 471, 18 U.S.C. § 641, 18 U.S.C. § 47, 18 U.S.C. § 1593A, 18 U.S.C. § 1596.

her claim she merely says, "Copies of a purported 'Note' were presented in October 2015 on 2 occasions with an obvious robosigned signature that is not the Agent's actual signature . . . These only appeared on two copies on August 30, 2018 and September 10, 2018." Compl., Dkt. # 1, at 3. Sahm seeks the following relief: "Immediate release of any 'lien(s)' against the 'house and property.' A permanent stay put in place to protect my Homestead from any further attempts to steal the property through illegal and unlawful 'Trustee Sales,' 'Sheriff Sales' or any other unlawful or illegal means. Prosecution of party responsible for forgery. Payment of all trespass fees billed." *Id.* Defendant moves for dismissal, arguing that claim and issue preclusion bar Plaintiff's suit, Plaintiff fails to state a claim for which relief may be granted, RCW 61.24.127 bars Plaintiff's requested remedy, and Plaintiff's claim related to robosigning is time-barred. Dkt. # 28.

III. Analysis

Federal Rule of Civil Procedure 12(b)(6) provides for dismissal when a complaint "fail[s] to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). The Court construes the complaint in the light most favorable to the nonmoving party. *Livid Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940, 946 (9th Cir. 2005). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that

the defendant is liable for the misconduct alleged.” *Id.* Because Plaintiff is pro se, the Court must construe her pleadings liberally. *See Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010).

Taking the factual assertions in the complaint as true and viewing the complaint in the light most favorable to Plaintiff, the Court determines that it fails to state claims upon which relief can be granted.² Plaintiff cites a series of laws without explaining how Defendant allegedly violated them. Plaintiff’s only factual assertion is, “Copies of a purported ‘Note’ were presented in October 2015 on 2 occasions with an obvious robosigned signature that is not the Agent’s actual signature These only appeared on two copies on August 30, 2018 and September 10, 2018.” Compl., Dkt. # 1, at 3. She does not connect these factual assertions to the cited laws allegedly violated, nor is it apparent how the facts, as she presents, them could constitute a violation of the laws she cites. *See Toone v. Wells Fargo Bank, N.A.*, 716 F.3d 516, 521 (10th Cir. 2013) (“It does not explain what ‘robo-signing’ is or why it renders the endorsements fraudulent, let alone include factual content indicating that it occurred in this case. Numerous courts have held that bald allegations of ‘robo-signing’ do not suffice under the Rule 8(a)(2) standard set by *Iqbal*.”).

² As the Court dismisses Plaintiff’s complaint on Federal Rule of Civil Procedure 12(b)(6) grounds, it does not reach Defendant’s arguments about issue and claim preclusion, RCW 61.24.127 remedies, or the statute of limitations for robosigning.

IV. Conclusion

Based on the above, the Court GRANTS the Motion. Plaintiff's complaint is dismissed without prejudice. The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 2nd day of June, 2022.

/s/John H. Chun
United States District Judge

**ORDER DENYING SECOND MOTION FOR A
PERMANENT INJUNCTION, U.S. DISTRICT
COURT FOR THE WESTERN DISTRICT OF
WASHINGTON
(MAY 31, 2022)**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERI KEALOHA SAHM,

Plaintiff,

v.

SELECT PORTFOLIO SERVICING, INC.,

Defendant.

Case No. 2:22-cv-00165-JHC

Before: John H. CHUN,
United States District Judge.

This matter comes before the Court on Plaintiff Teri Kealoha Sahm's second motion for an emergency permanent injunction (the "Motion"). Dkt. # 14. Plaintiff again seeks an order enjoining the enforcement of a Sheriff Eviction Notice. Defendant Select Portfolio Servicing, Inc. opposes the Motion. Dkt. # 31. Having considered the submissions of the parties, the Court DENIES the Motion.

“As a general rule, a permanent injunction will be granted when liability has been established and there is a threat of continuing violations.” *MAI Sys. Corp. v. Peak Computer, Inc.*, 991 F.2d 511, 520 (9th Cir. 1993) (emphasis added). Plaintiff has still not established Select Portfolio Servicing Inc.’s liability; she makes no argument about liability in the Motion, nor has she moved for a judgment on the merits. And

[a] plaintiff seeking permanent injunctive relief must demonstrate: “(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.”

Amazon Content Servs. LLC v. Kiss Libr., No. C20-1048 MR, 2021 WL 5998412, at *6 (W.D. Wash. Dec. 17, 2021) (quoting *eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006)). While Plaintiff lists a series of reasons why she will allegedly suffer irreparable injury if the eviction notice is enforced, the Motion does not indicate that any of the other elements are met.

To the extent that the Motion should be considered a motion for a preliminary injunction, Plaintiff has similarly not established the requisite elements for such relief. See *Winter v. NRDC*, 129 S. Ct. 365, 374 (2009) (holding that a plaintiff seeking a preliminary injunction must demonstrate they are likely to succeed on the merits, they are likely to suffer irreparable harm without the injunction, that the balance of

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equities tips in their favor, and that a preliminary injunction is in the public interest).

For the foregoing reasons, the Court DENIES the Motion. The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 31st day of May, 2022.

/s/John H. Chun
United States District Judge

**ORDER DENYING PLAINTIFF'S MOTION
FOR A PERMANENT INJUNCTION, U.S.
DISTRICT COURT FOR THE WESTERN
DISTRICT OF WASHINGTON
(APRIL 22, 2022)**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERI KEALOHA SAHM,

Plaintiff,

v.

SELECT PORTFOLIO SERVICING, INC.,

Defendant.

Case No. 2:22-cv-00165-JHC

Before: John H. CHUN,
United States District Judge.

This matter comes before the Court on plaintiff Teri Kealoha Sahm's motion for an emergency permanent injunction (the "Motion") (Dkt. # 6). Plaintiff seeks an order enjoining the enforcement of a Sheriff Eviction Notice. Having considered the submissions of the parties, the Court DENIES the Motion.

"As a general rule, a permanent injunction will be granted when liability has been established and

there is a threat of continuing violations.” *MAI Sys. Corp. v. Peak Computer, Inc.*, 991 F.2d 511, 520 (9th Cir. 1993) (emphasis added). Plaintiff has not established Select Portfolio Servicing Inc.’s liability; she makes no argument about liability in the Motion, nor has she moved for a judgment on the merits. And

[a] plaintiff seeking permanent injunctive relief must demonstrate: “(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.”

Amazon Content Servs. LLC v. Kiss Libr., No. C20-1048 MR, 2021 WL 5998412, at *6 (W.D. Wash. Dec. 17, 2021) (quoting *eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006)). The Motion does not indicate that plaintiff has met any of these elements.

To the extent that the Motion should be considered a motion for a preliminary injunction, plaintiff has similarly not established the requisite elements for such relief. *See Winter v. NRDC*, 129 S. Ct. 365, 374 (2009) (holding that a plaintiff seeking a preliminary injunction must demonstrate they are likely to succeed on the merits, they are likely to suffer irreparable harm without the injunction, that the balance of equities tips in their favor, and that a preliminary injunction is in the public interest).

For the foregoing reasons, the Court DENIES the Motion.

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The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 22nd day of April, 2022.

/s/John H. Chun
United States District Judge