

JANE M. SOTANSKI, Plaintiff-Appellant,

v.

HSBC BANK USA, NA, as Trustee for the Holders of the Deutsche Alt-A Securities, Inc. Mortgage Loan Trust, Mortgage Pass-Through Certificates Series 2007-OA4; RTS PACIFIC, INC., Defendants-Appellees.

[No. 15-16798.](#)

United States Court of Appeals, Ninth Circuit.

Submitted December 14, 2016^[**].

Filed December 22, 2016.

Appeal from the United States District Court for the Northern District of California; D.C. No. 5:15-cv-01489-LHK, Lucy H. Koh, District Judge, Presiding. Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

NOT FOR PUBLICATION

MEMORANDUM^[*]

Jane M. Sotanski appeals pro se from the district court's order dismissing her action alleging Truth in Lending Act ("TILA") and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). [Doe v. Abbott Labs.](#), 571 F.3d 930, 933 (9th Cir. 2009). We affirm.

The district court properly dismissed as time-barred Sotanski's TILA claim for rescission because Sotanski did not deliver a notice of rescission within three years of consummation of the loan. See 15 U.S.C. § 1635(f) (imposing three-year period to exercise right of rescission under TILA); [Jesinoski v. Countrywide Home Loans, Inc.](#), 135 S. Ct. 790, 792 (2015) (a borrower exercises her right of rescission by notifying the creditor of intent to rescind within three years after the transaction is consummated). The district court properly dismissed Sotanski's wrongful foreclosure claim because Sotanski's claim was contingent on her TILA claim not being time barred. See [Yvanova v. New Century Mortg. Corp.](#), 365 P.3d 845, 850 (Cal. 2016) (explaining that the beneficial holder of a deed of trust can initiate nonjudicial foreclosure proceedings under Cal. Civ. Code § 2924).

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).

AFFIRMED.

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

[\[*\]](#) This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.