

MAR 10 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CHRIS MARTINO, II,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>GLEN A. CHAPMAN,</p> <p>Defendant - Appellee.</p>
--

No. 08-15268

D.C. No. CV-06-02407-MHM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Mary H. Murguia, District Judge, Presiding

Submitted February 16, 2010\*\*

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Chris Martino, II, appeals pro se from the district court’s judgment dismissing his diversity action alleging breach of contract. We have jurisdiction

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

under 28 U.S.C. § 1291. We review for an abuse of discretion the denial of a motion for default judgment, *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986), and we affirm.

The district court did not abuse its discretion by denying Martino's motion for default judgment in light of the lack of merit of the substantive claim, the insufficiency of the complaint, the amount of money at stake, and the possibility that Chapman would dispute the material facts. *See id.* at 1471-72 (setting forth factors that courts may consider in determining whether to enter default judgment); *Aldabe v. Aldabe*, 616 F.2d 1089, 1092-93 (9th Cir. 1980) (per curiam) (concluding that the district court did not abuse its discretion by denying plaintiff's motion for default judgment where the substantive claims lacked merit).

Martino's remaining contentions are unpersuasive.

**AFFIRMED.**