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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: BETTY JEAN MCCARTHER-
MORGAN,

Debtor.

BETTY JEAN MCCARTHER-
MORGAN,

Appellant,

v.

ASSET ACCEPTANCE, LLC,

Appellee.

No. 09-60006

BAP No. SC-08-1093-KwMoJu

MEMORANDUM *

Appeal from the Ninth Circuit

Bankruptcy Appellate Panel

Kwan, Montali, and Jury, Bankruptcy Judges, Presiding

Submitted April 6, 2010**

Pasadena, California

Before: FERNANDEZ, SILVERMAN, and GRABER, 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. Fed. R. App. P. 34(a)(2).

Betty Jean McCarther-Morgan appeals the dismissal of her adversary action against Asset Acceptance, LLC. McCarther-Morgan alleges violation of the Fair Debt Collection Practices Act ("FDCPA") and the California Rosenthal Fair Debt Collection Practices Act ("RFDCPA"). We review de novo. Price v. U.S. Tr. (In re Price), 353 F.3d 1135, 1138 (9th Cir. 2004).

The Bankruptcy Appellate Panel ("BAP") properly affirmed the bankruptcy court's dismissal of McCarther-Morgan's FDCPA claim because the Bankruptcy Code precludes that claim. Walls v. Wells Fargo Bank, N.A., 276 F.3d 502, 510-11 (9th Cir. 2002). The BAP also properly affirmed the dismissal of McCarther-Morgan's RFDCPA claim because the Bankruptcy Code preempts that claim. MSR Exploration, Ltd. v. Meridian Oil, Inc., 74 F.3d 910, 912-16 (9th Cir. 1996).

McCarther-Morgan argues that recent revisions to the Bankruptcy Code undermine the holdings in Walls and MSR Exploration, but that argument is inapplicable. McCarther-Morgan raises this argument for the first time in her reply brief. Because she failed to raise this argument either below or in her opening brief on appeal, she has waived it. Butler v. Curry, 528 F.3d 624, 642 (9th Cir.), cert. denied, 129 S. Ct. 767 (2008).

AFFIRMED.