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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>STEVE LINDER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>AURORA LOAN SERVICES, LLC; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-16905

D.C. No. 2:09-cv-03490-JAM-KJM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Steve Linder appeals from the district court’s judgment dismissing his action arising out of foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court’s dismissal without

* 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).

leave to amend. *Gordon v. City of Oakland*, 627 F.3d 1092, 1094 (9th Cir. 2010).

We affirm.

Contrary to Linder's sole contention on appeal, the district court did not abuse its discretion by dismissing Linder's Truth in Lending Act damages claim, Real Estate Settlement Procedures Act claim, and negligence, fraud, and unfair competition claims without leave to amend because amendment was futile. *See id.*; *see also Janas v. McCracken (In Re Silicon Graphics Sec. Litig.)*, 183 F.3d 970, 991 (9th Cir. 1999) (no abuse of discretion where plaintiff failed to set forth any facts that could potentially state a claim).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, nor arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.