

AUG 01 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDMUND C. OLSON, as Trustee of the  
Edmund C. Olson Trust No.2, U/A Dated  
August 21, 1985,

Plaintiff - Appellee,

v.

HAN KAMAKANI PHUA; ABEL  
SIMEONA LUI,

Defendants - Appellants.

No. 12-15251

D.C. No. 1:10-cv-00691-ACK-  
RLP

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Hawaii  
Alan C. Kay, District Judge, Presiding

Submitted July 22, 2014\*\*

Before: GOODWIN, CANBY, and CALLAHAN, Circuit Judges.

Abel Simeona Lui appeals pro se from the district court's summary  
judgment in favor of plaintiff, Edmund C. Olson, as trustee of the Edmund C.

---

\* 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).

Olson Trust No. 2, in the Trust's diversity action seeking declaratory and injunctive relief in connection with defendants' non-consensual liens on real property. We have jurisdiction under 28 U.S.C. § 1291. We review *de novo*, *Doe v. Abbott Labs.*, 571 F.3d 930, 933 (9th Cir. 2009), and we affirm.

We reject Lui's argument that the district court violated his procedural due process rights by deciding the Trust's noticed motion for summary judgment without first issuing a formal scheduling order, where Lui opposed the motion and appeared at the hearing. *See Guenther v. Comm'r*, 889 F.2d 882, 884 (9th Cir. 1989) (order) ("Notice and an opportunity to be heard are the hallmarks of procedural due process.").

We do not consider arguments raised for the first time on appeal, including Lui's arguments concerning *res judicata* or collateral estoppel and alleged perjury or fraud. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (*per curiam*).

We lack jurisdiction to consider the district court's order granting the Trust's motion for reconsideration because Lui failed to file an amended or separate notice of appeal. *See Whitaker v. Garcetti*, 486 F.3d 572, 585 (9th Cir. 2007).

We do not have jurisdiction over the portion of the judgment as to Han Kamakani Phua because Phua did not sign the Notice of Appeal. *See Fed. R. App.*

P. 3(c)(2); Fed. R. App. P. 4(a); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (Rule 4(a) is both mandatory and jurisdictional); *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987) (a nonattorney does not have authority to appear as an attorney for others).

**AFFIRMED.**