

FILED

MAY 06 2016

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JIM CODY WILLIAMS,

Plaintiff - Appellant,

v.

TOUCHTUNES MUSIC  
CORPORATION, a New York  
corporation; TONY MASTRONARDI, an  
individual; GUY NATHAN, an individual;  
JOHN PERRACHON, an individual;  
MATTHEW CARSON, an individual;  
CHRIS MARCOLEFAS, an individual;  
DAN MCALLISTER, an individual;  
DOMINQUE DION, an individual,

Defendants - Appellees.

No. 14-56055

D.C. No. 2:13-cv-04752-BRO-  
JCG

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Beverly Reid O'Connell, District Judge, Presiding

Submitted May 3, 2016\*\*  
Pasadena, California

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\* 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).

Before: KOZINSKI, W. FLETCHER, and GOULD, Circuit Judges.

We affirm the district court’s dismissal with prejudice of Jim Cody Williams’s Fourth Amended Complaint. The complaint alleges a unified course of fraudulent conduct and is therefore subject to the heightened pleading standard of Fed. R. Civ. P. 9(b). *Rubke v. Capitol Bancorp Ltd.*, 551 F.3d 1156, 1161 (9th Cir. 2009). The operative complaint does not meet that standard because it does not “state with particularity the circumstances constituting [the alleged] fraud.” Fed. R. Civ. P. 9(b). The district court did not abuse its discretion in dismissing the case with prejudice because Williams failed to cure this pleading defect after the court gave Williams an opportunity to do so.

Defendant-Appellee’s Motion To Dismiss Notice Of Appeal and Motion For Judicial Notice are denied as moot.

**AFFIRMED.**