

AUG 05 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAN SAMZELIUS,

Plaintiff - Appellant,

v.

BANK OF AMERICA, N.A., as Successor  
by Merger LaSalle Bank National  
Association as Trustee for Morgan Stanley  
Loan Trust 2006-3AR; WELLS FARGO  
BANK, NA,

Defendants - Appellees.

No. 13-15115

D.C. No. 3:12-cv-03295-EDL

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Elizabeth D. Laporte, Magistrate Judge, Presiding\*\*

Submitted July 26, 2016\*\*\*

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

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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 parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

Jan Samzelius appeals from the district court's judgment dismissing his action alleging federal and state law claims related to his mortgage. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the denial of leave to amend. *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011). We affirm.

The district court did not abuse its discretion by dismissing the amended complaint without leave to amend because further amendment would have been futile. *See id.* (explaining that "a district court may dismiss without leave where . . . amendment would be futile").

We do not consider the district court's dismissal order because Samzelius failed to address the district court's dismissal of his claims in his opening brief. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) ("[A]rguments not raised by a party in its opening brief are deemed waived.").

**AFFIRMED.**