

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2016

FOR THE NINTH CIRCUIT

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

DARRU K. "KEN" HSU, Individually and
as Trustee of the Darru K. Hsu and Gina T.
Hsu Living Trust U/AO5/O5/03;
individually and on behalf of all others
similarly situated,

Plaintiff-Appellant,

v.

UBS FINANCIAL SERVICES, INC.,

Defendant-Appellee.

No. 14-15588

D.C. No. 3:11-cv-02076-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William Alsup, District Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Darru K. "Ken" Hsu appeals pro se from the district court's order denying
his motion for relief from judgment under Federal Rule of Civil Procedure

* 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. *See* Fed. R. App. P. 34(a)(2).

60(d)(3). We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion, *United States v. Estate of Stonehill*, 660 F.3d 415, 443 (9th Cir. 2011), and we affirm.

The district court did not abuse its discretion in denying Hsu relief from the judgment because Hsu failed to establish by clear and convincing evidence that defendant perpetrated a “fraud on the court.” *Pizzuto v. Ramirez*, 783 F.3d 1171, 1181 (9th Cir. 2015) (requiring more specific evidence of fraud than plaintiff’s “series of allegations and implications”). We reject as without merit Hsu’s contention that the district court applied the wrong legal standard. *See id.* (“The burden of proof rests with petitioner to show the fraud by clear and convincing evidence.”).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions and requests are denied.

AFFIRMED.