

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 4 2017

FOR THE NINTH CIRCUIT

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

AARON RAISER,

Plaintiff-Appellant,

v.

DOUG LARGE,

Defendant-Appellee.

No. 14-55835

D.C. No. 2:09-cv-00254-RGK-  
AGR

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
R. Gary Klausner, District Judge, Presiding

Submitted September 21, 2017\*\*

Before: SCHROEDER, HAWKINS, and N.R. SMITH, Circuit Judges.

Aaron Raiser appeals pro se from the district court's order denying his motion to amend his civil rights complaint to add claims of fraud, intentional misrepresentation, and false promise, arising from his expulsion from Ventura College of Law. We have jurisdiction under 28 U.S.C. § 1291. We review for an

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes these cases are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

abuse of discretion the district court's decision to deny leave to amend. *Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 725 (9th Cir. 2000). We affirm.

Because Raiser cannot allege facts sufficient to establish promissory fraud as against defendant Large, the district court did not abuse its discretion in denying Raiser's motion to amend his complaint. Thus, his proposed amendments, each of which sound in fraud, would have been futile. *See id.* at 725-26 (9th Cir. 2000) ("A district court acts within its discretion to deny leave to amend when amendment would be futile[.]"); *see also Lazar v. Superior Court*, 909 P.2d 981, 985 (Cal. 1996) (setting forth the elements of promissory fraud).

We lack jurisdiction to consider the district court's order denying Raiser's June 23, 2014 motion, which the district court construed as a motion for reconsideration, because Raiser failed to file an amended or separate notice of appeal. *See Whitaker v. Garcetti*, 486 F.3d 572, 585 (9th Cir. 2007).

Raiser's request to certify the questions at issue to the California Supreme Court, set forth in his reply brief, is denied.

**AFFIRMED.**