

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 6 2017

FOR THE NINTH CIRCUIT

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

LNV CORPORATION, a Nevada
corporation,

Plaintiff-Appellee,

v.

ROBYNNE ARIEL FAULEY,

Defendant-Appellant,

and

U.S. BANK,

Defendant.

No. 16-35593

D.C. No. 3:15-cv-01422-HZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Marco A. Hernandez, District Judge, Presiding

Submitted September 26, 2017**

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Robynne Ariel Fauley appeals pro se from the district court's summary

* 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).

judgment in LNV Corporation’s diversity action arising out of judicial foreclosure proceedings. 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). We affirm.

The district court properly granted summary judgment because Fauley failed to raise a genuine dispute of material fact as to whether LNV was not entitled to judicial foreclosure. *See* Or. Rev. Stat. §§ 73.0301, 86.710-86.715, *Brandrup v. ReconTrust Co., N.A.*, 303 P.3d 301, 315 (Or. 2013) (en banc) (“A trust deed follows the promissory note that it secures.”); *Deutsche Bank Trust Co. Ams. v. Walmsley*, 374 P.3d 937, 940 (Or. Ct. App. 2016) (concluding plaintiff entitled to enforce a promissory note where plaintiff established “that it possessed the note at the time of the foreclosure action and that the note was indorsed to plaintiff.”).

The district court did not abuse its discretion in denying Fauley’s motion for reconsideration because Fauley failed to demonstrate any grounds for such relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and listing grounds warranting reconsideration).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents not filed with the district court. *See United States v. Elias*, 921

F.2d 870, 874 (9th Cir. 1990) (“Documents or facts not presented to the district court are not part of the record on appeal.”).

All pending motions and requests are denied.

AFFIRMED.