

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 31 2017

FOR THE NINTH CIRCUIT

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

RAPHAEL RUSSELL,

Plaintiff-Appellant,

v.

SNOHOMISH COUNTY PLANNING  
AND DEVELOPMENT,

Defendant-Appellee.

No. 16-35706

D.C. No. 2:15-cv-01649-JCC

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
John C. Coughenour, District Judge, Presiding

Submitted October 23, 2017\*\*

Before: McKEOWN, WATFORD, and FRIEDLAND, Circuit Judges.

Raphael Russell appeals pro se from the district court's summary judgment in his action alleging discrimination under the Fair Housing Act and fraud. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

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

In his opening brief, Russell fails to challenge the district court's order granting summary judgment and therefore he has waived any such challenge. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We will not manufacture arguments for an appellant . . .”).

We reject as without merit Russell's contention that he was not properly served with documents because Russell consented to electronic service.

We do not consider documents and facts not presented to 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.”).

Russell's motion to file a late reply brief (Docket Entry No. 19) is granted. The Clerk shall file the reply brief at Docket Entry No. 18. All other pending motions (Docket Entry Nos. 7, 20, 21, and 24) are denied.

**AFFIRMED.**