

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 17 2017

FOR THE NINTH CIRCUIT

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

WINSTON O'MALLY,

No. 16-55700

Plaintiff-Appellant,

D.C. No. 2:15-cv-08644-DSF-JPR

v.

MEMORANDUM*

PNC BANK, N.A.; SELECT PORTFOLIO
SERVICING,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Winston O'Mally appeals pro se from the district court's judgment dismissing his action alleging Fair Credit Reporting Act ("FCRA") claims related to disputed information on his credit report. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Lacey v. Maricopa County*, 693 F.3d 896, 911 (9th

* 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).

Cir. 2012). We affirm.

The district court properly dismissed O'Mally's FCRA claims because O'Mally cannot bring a claim under 15 U.S.C. § 1681s-2(a) as an individual, and he did not properly notify a consumer reporting agency of disputed information as required for a claim under 15 U.S.C. § 1681s-2(b). *See Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d 1147, 1153-54 (9th Cir. 2009) (claims under 15 U.S.C. § 1681s-2(a) can be brought only by federal or state agencies, and consumer's dispute sent directly to a lender or other furnisher of information does not trigger duties under 15 U.S.C. § 1681s-2(b)).

We do not consider O'Mally's arguments regarding his Fair Debt Collection Practices Act claim because O'Mally failed to replead it in his operative complaint. *See Lacey*, 693 F.3d at 928 (claims dismissed with leave to amend are waived if not replead); *see also Chubb Customs Ins. Co. v. Space Sys./Loral, Inc.*, 710 F.3d 946, 973 n.14 (9th Cir. 2013) (plaintiff's claims were effectively abandoned when plaintiff did not replead them after district court dismissed with leave to amend).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending requests are denied.

AFFIRMED.