

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2017

FOR THE NINTH CIRCUIT

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

NIKI-ALEXANDER SHETTY, FKA Satish
Shetty,

Plaintiff-Appellant,

v.

JP MORGAN CHASE BANK NA;
NATIONAL DEFAULT SERVICING
CORPORATION,

Defendants-Appellees.

No. 16-56852

D.C. No. 2:16-cv-04042-PA-SS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted November 15, 2017**

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

Niki-Alexander Shetty, FKA Satish Shetty, appeals pro se from the district court's judgment dismissing his diversity action alleging state law claims related to foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We

* 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).

review de novo a dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), and we may affirm on an basis supported by the record.

Thompson v. Paul, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

Dismissal of Shetty’s action was proper because Shetty failed to allege facts sufficient to “state a claim that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (explaining that “[a] pleading that offers labels and conclusions” or “naked assertions devoid of further factual enhancement” is insufficient to survive a motion to dismiss (citation and internal quotation marks omitted)).

The district court did not abuse its discretion by taking judicial notice of certain public records and bankruptcy court documents, and considering documents referenced in Shetty’s complaint without converting defendants’ motions to dismiss into motions for summary judgment. *See Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th Cir. 2001) (setting forth standard of review, and describing documents that a district court may take judicial notice of when ruling on a Rule 12(b)(6) motion). We reject as without merit Shetty’s related contentions that the district court violated his rights to due process and equal protection.

The district court did not abuse its discretion in granting defendants’ motion to dismiss without first holding a hearing. *See Fed. R. Civ. P. 78(b)* (“By rule or

order, the court may provide for submitting and determining motions on briefs, without oral hearings.”); C.D. Cal. R. 7-15 (“The Court may dispense with oral argument on any motion except where an oral hearing is required by statute, the [Federal Rules of Civil Procedure] or these Local Rules.”).

We do not consider arguments raised for the first time on appeal or 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).

AFFIRMED.