

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2018

FOR THE NINTH CIRCUIT

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

DELMER M. ACKELS,

No. 17-35707

Plaintiff-Appellant,

D.C. No. 4:16-cv-00026-TMB

v.

MEMORANDUM*

RANDY M. OLSEN, In His Official
Capacity, the State of Alaska; GOLDRICH
MINING COMPANY, FKA Squaw Gold
Mining Company,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Alaska
Timothy M. Burgess, Chief Judge, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

Delmer M. Ackels appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising from a mining dispute. We have jurisdiction under 28 U.S.C. § 1291. Ackels assigns as error the district court's

* 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).

orders denying his motions for default judgment, and we review for an abuse of discretion. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). We affirm.

The district court did not abuse its discretion in denying Ackels's motions for default judgment because several factors supported the denial of default. *See* Fed. R. Civ. P. 55; *Eitel*, 782 F.2d at 1471-72 (setting forth factors for determining whether to enter default judgment).

The district court did not abuse its discretion by denying Ackels's motion to submit a CD-R photo disk as an exhibit to his complaint. *See FTC v. Gill*, 265 F.3d 944, 957 (9th Cir. 2001) (district court has broad discretion to control its docket).

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).

AFFIRMED.