

NOT FOR PUBLICATION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

TONY-TUAN NGUYEN,

Plaintiff-Appellant,

v.

FRANZ MILLER, as an individual and in
his official capacity; et al.,

Defendants-Appellees.

No. 17-55480

D.C. No. 8:16-cv-02137-CJC-DFM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted February 13, 2018**

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

Tony-Tuan Nguyen appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a 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). Nguyen's request for oral argument, set forth in his opening brief, is denied.

dismissal under Fed. R. Civ. P. 12(b)(6). *Knievel v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005). We affirm.

Appellees Thien Kinh Tran, Thu Hien Thi Nguyen, and Andrew Weiss's motion for summary affirmance (Docket Entry No. 9) is granted because the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982). The briefing schedule as to these appellees is vacated as moot.

The district court properly dismissed Nguyen's claims against the Orange County Superior Court, Miller, Moss, and Stafford on the bases of Eleventh Amendment and judicial immunity. *See Simmons v. Sacramento Cty. Superior Court*, 318 F.3d 1156, 1161 (9th Cir. 2003) (suits against California superior courts are barred by the Eleventh Amendment); *Duvall v. County of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001) (explaining that judges are generally immune from suit for money damages and setting forth factors relevant to whether an act is judicial in nature and subject to judicial immunity).

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 reject as meritless Nguyen's contentions of judicial bias.

AFFIRMED.