

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 26 2018

FOR THE NINTH CIRCUIT

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

MARY L. BECKNER, individually,

No. 12-55849

Plaintiff-Appellant,

D.C. No. 2:12-cv-00704-JFW-PLA

v.

MEMORANDUM*

RECONTRUST COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted February 13, 2018**

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

This matter has been stayed since February 2, 2015, pending issuance of the mandate in *Ho v. ReconTrust Co., N.A.*, No. 10-56884, or further order of the court. We hereby lift the stay.

Mary L. Beckner appeals pro se from the district court's order dismissing

* 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).

her action alleging Fair Debt Collection Practices Act (“FDCPA”) and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim, and we may affirm on any ground supported by the record. *Kwan v. SanMedica Int’l*, 854 F.3d 1088, 1093 (9th Cir. 2017). We affirm.

Dismissal of Beckner’s FDCPA claims was proper because the alleged communication was not an attempt to collect a “debt” as defined by the FDCPA. *See Ho v. ReconTrust Co.*, 858 F.3d 568, 572 (9th Cir. 2017) (“[A]ctions taken to facilitate a non-judicial foreclosure . . . are not attempts to collect ‘debt’ as that term is defined by the FDCPA.”); *Dowers v. Nationstar Mortg., LLC*, 852 F.3d 964, 970 (9th Cir. 2017) (explaining that “the FDCPA regulates security interest enforcement activity . . . *only* through Section 1692f(6)” and that “[a]s for the remaining FDCPA provisions, ‘debt collection’ refers only to the collection of a money debt”).

The district court did not abuse its discretion by ruling on ReconTrust Company’s motion to dismiss without oral argument. *See* Fed. R. Civ. P. 78(b); C.D. Cal. R. 7-15; *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822, 832 n.6 (9th Cir. 2003) (“The district court was within its discretion to

dispense with oral argument.” (citations omitted)).

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).

Beckner’s “objection and challenge to court order refusal and rebuttal” (Docket Entry No. 17) is denied.

Beckner’s requests to take judicial notice (Docket Entry Nos. 12 & 27) are denied.

AFFIRMED.