

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SEP 21 2016

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

XING WEI JING,

Plaintiff-Appellant,

v.

LOS ANGELES COUNTY,

Defendant-Appellee.

No. 15-55907

D.C. No. 2:13-cv-05207-DDP-
MAN

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted September 13, 2016**

Before: HAWKINS, N.R. SMITH, and HURWITZ, Circuit Judges.

Xing Wei Jing appeals pro se from the district court's order in his employment action alleging discrimination in violation of Title VII. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal under Federal Rule of Civil Procedure 12(b)(6). *Hebbe v. Pliler*, 627

* 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).

F.3d 338, 341 (9th Cir. 2010). We affirm.

The district court properly dismissed Jing’s wrongful termination claims as precluded by a final judgment on the merits in proceedings before the County of Los Angeles Civil Service Commission. *See Brodheim v. Cry*, 584 F.3d 1262, 1268 (9th Cir. 2009) (explaining that California’s doctrine of claim preclusion is based on a primary rights theory).

The district court properly dismissed Jing’s claim for “employment defamation” because Jing failed to allege compliance with the California Tort Claims Act. *See Karim-Panahi v. L.A. Police Dep’t*, 839 F.2d 621, 627 (9th Cir. 1988) (a plaintiff must allege compliance with California tort claims procedures in order to state a state law tort claim against a public employee).

Appellees’ December 16, 2015 unopposed request for judicial notice is granted.

Jing’s January 27, 2016 opposed motion to strike appellees’ answering brief is denied.

AFFIRMED.