

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 18 2022

FOR THE NINTH CIRCUIT

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

SALMA AGHA-KHAN, M.D.,

No. 18-16553

Plaintiff-Appellant,

D.C. No. 2:17-cv-02739-GMN-
CWH

v.

MEMORANDUM*

MORTGAGE ELECTRONIC
REGISTRATION SYSTEM, INC., a
mortgage registration system, Delaware
corporation not registered to do business in
Nevada; MERSCORP HOLDINGS, INC.,
parent of Mortgage Electronic Registrations
Systems Inc. not registered to do business in
Nevada; ASPEN MORTGAGE LLC, a
Nevada Limited Liability Corporation;
ASPEN FINANCIAL SERVICES, a Nevada
business organization; JEFF GUINN;
ANGELA NAVA; AMANDA JONES;
PATRICIA DEAN; BANK OF AMERICA
CORPORATION; RECON TRUST
COMPANY; BAC HOME LOANS
SERVICING, LP; COUNTRYWIDE HOME
LOANS SERVICING, L.P.; RECONTRUST
COMPANY, NA-NV MEDIATION TEAM;
MELISA MARTIN; TIFFANY MAYES;
MARIA C. RODRIGUEZ; DEEDRA
WILLIAMS; JAMES DIAZ; HATTIE
MOORE; VALINDA PICKENS; FIDELITY
NATIONAL DEFAULT; LSI TITLE
AGENCY, INC.; ANSELMO

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

PAGKALIWANGAN; SERVICELINK;
BANK OF NEW YORK, FKA Bank of New
York; STEPHANIE Y. KING; CASTLE
AND COOKE MORTGAGE LLC;
LOANCARE; CHICAGE TITLE LAS
VEGAS; CHICAGO TITLE AGENCY
NEVADA, aka Chicago Title of Nevada,
Inc.; SARA HALL; GERRARD AND COX
(LEGAL WINGS), aka Gerrard Cox and
Larsen; SHELDON ANDREW HERBERT;
DOUGLAS D. GERRARD; ESTHER
MEDELLIN; AKERMAN SENTERFITT,
LLP; NATALIE L. WINSLOW; CHET J.
COX; KRISTINA C. COX; NATIONWIDE
TITLE CLEARING, INC.; WELLS FARGO
HOME MORTGAGE; WELLS FARGO
FINANCIAL NATIONAL BANK; WELLS
FARGO BANK, N.A.; VLADIMIR
PETRICEVIC; CARDINAL FINANCIAL
COMPANY, LP; VERDUGO TRUSTEE
SERVICES CORPORATION; CITI
MORTGAGE INC.; CITIBANK, NA;
CITICORP; CITIGROUP; ABIGAIL L.
ROSS; TERRA WEST PROPERTY
MANAGEMENT; TERRA WEST
COLLECTIONS; JENNIFER A. EZELL;
MONIQUE D. WASHINGTON;
MICHELLE PETERSEN; SAN SEVINO
WEST AT SHD; SOUTHERN
HIGHLANDS COMMUNITY
ASSOCIATION; SAN SEVINO HOME
OWNER'S ASSOCIATION; TITLE
COURT SERVICES INC.; SHARON
TAYLOR; ALESSI TRUSTEE
CORPORATION; NORTH AMERICAN
TITLE COMPANY; SOUTHERN
HIGHLANDS MASTER; AILEEN RUIZ;
SOUTHERN HIGHLANDS MASTER
HOA; ALESSI AND KOENIG LLP; SAN
SEVINO WEST AT SOUTHERN

HIGHLANDS HOA; ASSESSMENT
MANAGEMENT SERVICES; ARCH G.
NEBRON; HONG X. LAM; HEIDI
HAGEN; NAOMI EDEN; DAVID A.
ALESSI; RYAN KEONIG; NATHAN
HALL; ROBERT ALESSI,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Nevada
Gloria M. Navarro, District Judge, Presiding

Submitted February 15, 2022**

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Salma Agha-Khan, M.D., appeals pro se from the district court's judgment dismissing her action alleging federal and state law claims arising out of a foreclosure. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's application of judicial estoppel. *Ah Quin v. County of Kauai Dep't of Transp.*, 733 F.3d 267, 270 (9th Cir. 2013). We affirm.

The district court did not abuse its discretion by dismissing Agha-Khan's action on the basis of judicial estoppel. The factual allegations in the complaint established that Agha-Khan was aware of, but failed to disclose, the existence of

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Agha-Khan's request for oral argument, set forth in the opening and reply briefs, is denied.

her claims in her bankruptcy proceeding, and Agha-Khan did not show that her failure to disclose was inadvertent or mistaken. *See Ah Quin*, 733 F.3d at 271-76 (explaining application of judicial estoppel in the bankruptcy context; where plaintiff-debtor reopens bankruptcy proceedings and corrects the initial filing error, the court will conduct inquiry into inadvertence or mistake).

The district court did not abuse its discretion by denying Agha-Khan's February 21, 2018 motion for disqualification because Agha-Khan failed to establish extrajudicial bias or prejudice. *See* 28 U.S.C. § 144 (setting forth requirements for recusal), § 455 (setting forth circumstances requiring disqualification); *United States v. Hernandez*, 109 F.3d 1450, 1453-54 (9th Cir. 1997) (setting forth standard of review; under § 144 and § 455, the substantive standard for recusal is whether "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned" (citation and internal quotation marks omitted)).

We reject as unsupported by the record Agha-Khan's contention that the district court ignored her motions for sanctions.

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).

All pending motions and requests are denied.

AFFIRMED.