

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 19 2022

FOR THE NINTH CIRCUIT

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

PAUL M. LUCORE,

Plaintiff-Appellant,

v.

WELLS FARGO BANK, N.A., as Trustee
for the Certificate Holders of the Lmt 2006-9
Trust; et al.,

Defendants-Appellees,

and

BANK OF AMERICA, N.A.,

Defendant.

No. 20-56056

D.C. No. 3:18-cv-02382-L-MDD

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Submitted April 11, 2022**

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

* 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).

Paul M. Lucore appeals from the district court's order denying his second motion for reconsideration. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

In his opening brief, Lucore fails to challenge the district court's order denying his second motion for reconsideration, and he has therefore waived any such challenge. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”); *see also Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We will not manufacture arguments for an appellant . . .”).

We do not consider Lucore's contentions regarding the merits of the district court's order dismissing his action or the district court's order denying his first motion for reconsideration, because Lucore filed the notice of appeal on October 9, 2020, more than 30 days after the entry of the district court's order denying his first motion for reconsideration. *See* Fed. R. App. P. 4(a)(1)(A) (notice of appeal must be filed within 30 days of judgment); *Stephanie-Cardona LLC v. Smith's Food & Drug Ctrs., Inc.*, 476 F.3d 701, 703 (9th Cir. 2007) (“A timely notice of appeal is a non-waivable jurisdictional requirement.”); *Swimmer v. IRS*, 811 F.2d 1343, 1344-45 (9th Cir. 1987), *abrogated on other grounds by Briones v. Riviera Hotel & Casino*, 116 F.3d 379 (9th Cir. 1997) (filing of the second motion for

reconsideration does not toll the time to appeal the underlying judgment).

AFFIRMED.