

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 4 2023

FOR THE NINTH CIRCUIT

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

SHARLYN MARIE APONTE DE JESUS,

No. 22-35548

Plaintiff-Appellant,

D.C. No. 3:22-cv-05285-BHS

v.

MEMORANDUM*

WELLS FARGO BANK, N.A.,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Washington
Benjamin H. Settle, District Judge, Presiding

Submitted July 18, 2023**

Before: SCHROEDER, RAWLINSON, and BADE, Circuit Judges.

Sharlyn Marie Aponte de Jesus appeals pro se from the district court's judgment dismissing her diversity action against Wells Fargo. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(6). *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d

* 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).

1005, 1014 (9th Cir. 2012). We affirm.

The district court properly dismissed Aponte de Jesus's action because Aponte de Jesus failed to allege facts sufficient to state any plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004) (a party's conclusory allegations, unwarranted deductions of fact, or unreasonable inferences need not be accepted as true).

Dismissal without leave to amend was proper because amendment would have been futile. *See Lucas v. Dep't of Corr.*, 66 F.3d 245, 248-49 (9th Cir.1995).

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).

Aponte de Jesus's motion for discovery (Docket Entry No. 27) is denied.

AFFIRMED.