

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 11 2017

FOR THE NINTH CIRCUIT

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

In re: LEONARD OTTO WALLACE;
PAMELA R. WALLACE,

Debtors.

No. 15-35791

D.C. No. 2:15-cv-00054-EJL

MEMORANDUM*

LEONARD OTTO WALLACE,

Plaintiff-Appellant,

v.

NORMAN HAYES; RODNEY HAYES,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted May 8, 2017**

Before: REINHARDT, LEAVY, and NGUYEN, Circuit Judges.

Leonard Otto Wallace appeals pro se from the district court's order

* 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).

affirming the bankruptcy court's order denying Wallace's motion objecting to Norman and Rodney Hayes's proof of claim. We have jurisdiction under 28 U.S.C. § 158(d). We review de novo a district court's decision on appeal from a bankruptcy court, and apply the same standard of review the district court applied to the bankruptcy court's decision. *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1166 (9th Cir. 1990). We affirm.

Assuming without deciding that Wallace had standing to object to the Hayes's proof of claim, denial of Wallace's motion was proper because Wallace failed to present evidence rebutting the proof of claim's presumption of validity. *See Diamant v. Kasparian (In re S. Cal. Plastics, Inc.)*, 165 F.3d 1243, 1247-48 (9th Cir. 1999) (proof of claim is prima facie evidence of claim's validity; "debtor must come forward with evidence to rebut the presumption of validity").

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).

Wallace's requests for judicial notice and remand (Docket Entry No. 21) are denied.

The Hayes's motion for attorney's fees and costs (Docket Entry No. 24) is denied without prejudice to re-filing in compliance with Federal Rule of Appellate

Procedure 39 and Ninth Circuit Rule 39-1.

AFFIRMED.