

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 5 2018

FOR THE NINTH CIRCUIT

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

JOHN D. ZIPPERER, Jr., M.D.,

No. 18-35266

Plaintiff-Appellant,

D.C. No. 3:15-cv-00208-JWS

v.

MEMORANDUM\*

PREMERA BLUE CROSS BLUE SHIELD  
OF ALASKA,

Defendant-Appellee.

Appeal from the United States District Court  
for the District of Alaska  
John W. Sedwick, District Judge, Presiding

Submitted November 27, 2018\*\*

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

John D. Zipperer, Jr., appeals pro se from the district court's summary judgment in his diversity action alleging a violation of the Alaska Prompt Payment Statute. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Bagdadi v. Nazar*, 84 F.3d 1194, 1197 (9th Cir. 1994). We may affirm on any

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\* 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).

ground supported by the record, *Thompson v. Paul*, 547 F.3d 1055, 1058–59 (9th Cir. 2008), and we affirm.

The district court properly granted summary judgment on Zipperer’s Alaska Prompt Payment Statute claim because Zipperer failed to raise a genuine dispute of material fact as to whether defendant failed to comply with the statute’s requirements given that defendants responded within 30 days. *See Alaska Stat. § 21.36.495* (requiring health care insurer to either pay or deny a clean claim within 30 days of receiving it).

Denial of Zipperer’s request for declaratory relief was proper because Zipperer did not prevail on his claim under the Alaska Prompt Payment Statute. *See Hoeck v. City of Portland*, 57 F.3d 781, 787 (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).

Zipperer’s request for oral argument (Docket Entry No. 31) is denied.

**AFFIRMED.**