NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD RYNN, Plaintiff-Appellant, v. FIRST TRANSIT, INC., an Ohio Corporation; UNKNOWN PARTIES, Defendants-Appellees.	No. 21-16836 D.C. No. 2:20-cv-01309-JJT MEMORANDUM[*]

Appeal from the United States District Court
for the District of Arizona
John Joseph Tuchi, District Judge, Presiding

Submitted November 15, 2022[**]

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Richard Rynn appeals pro se from the district court's judgment in his diversity action alleging state law claims arising out of a complaint made against him by a coworker. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's rulings on cross-motions for summary judgment. *Hamby*

[*] 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).

v. Hammond, 821 F.3d 1085, 1090 (9th Cir. 2016). We affirm.

The district court properly granted summary judgment for First Transit on Rynn's defamation claim because Rynn failed to raise a genuine dispute of material fact as to whether First Transit's employees defamed him. *See Dube v. Likins*, 167 P.3d 93, 104 (Ariz. Ct. App. 2007) (setting forth elements of a defamation claim under Arizona law); *Bailey v. Superior Court*, 636 P.2d 144, 146 (Ariz. Ct. App. 1981) (explaining that statements made in context of judicial proceedings are "absolutely privileged" against a charge of defamation "if they are connected with or have any bearing on or are related to the subject of inquiry").

The district court properly granted summary judgment for First Transit on Rynn's negligence claim because Rynn failed to allege that he was owed a duty and failed to raise a triable dispute as to whether First Transit breached any duty owed to Rynn and whether any of First Transit's actions injured Rynn. *See Gipson v. Kasey*, 150 P.3d 228, 230 (Ariz. 2007) (en banc) (setting forth elements of a negligence claim under Arizona law); *see also Craig v. M & O Agencies, Inc.*, 496 F.3d 1047, 1060 (9th Cir. 2007) (explaining that Arizona workers compensation law bars employee claims for negligent investigation, negligent hiring, and negligent retention, absent "willful misconduct" by an employer).

The district court did not abuse its discretion in striking Rynn's filings purporting to remove to the district court an action from the Arizona Supreme

Court to which First Transit was not a party. *See Nurse v. United States*, 226 F.3d 996, 1000 (9th Cir. 2000) (setting forth standard of review); Fed. R. Civ. P. 12(f) (providing that a court may strike immaterial and impertinent pleadings).

The district court did not abuse its discretion in denying Rynn's motion for additional discovery and motion to compel because Rynn failed to describe or explain the relevance of the discovery he sought. *See Laub v. U.S. Dep't of Interior*, 342 F.3d 1080, 1084, 1093 (9th Cir. 2003) (setting forth standard of review and explaining that "a decision to deny discovery will not be disturbed except upon the clearest showing that the denial of discovery results in actual and substantial prejudice to the complaining litigant"). Although Rynn contends that the district court should have granted his motion to supplement, Rynn was provided with an opportunity in connection with summary judgment to submit the evidence outlined in his motion.

The district court did not abuse its discretion in denying Rynn's motion to file a second amended complaint, which Rynn filed after the close of discovery and after summary judgment briefing was complete, because granting the motion would have prejudiced First Transit. *See Yakama Indian Nation v. State of Wash. Dep't of Revenue*, 176 F.3d 1241, 1246 (9th Cir. 1999) (setting forth standard of review and explaining denial of leave to amend is warranted if amendment "would cause prejudice to the opposing party . . . or create[] undue delay").

The district court did not abuse its discretion in denying Rynn's post-judgment motions for relief because Rynn failed to establish any basis for relief. *See Sch. Dist. No. 1J Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and discussing when reconsideration is appropriate); *see also Lindauer v. Rogers*, 91 F.3d 1355, 1357 (9th Cir. 1996) ("[O]nce judgment has been entered in a case, a motion to amend the complaint can only be entertained if the judgment is first reopened under a motion brought under Rule 59 or 60.").

We do not consider Rynn's challenges to the district court's December 13, 2021 order because they are outside the scope of this appeal.

We reject as unsupported by the record Rynn's contentions that the district court judge was biased or prejudiced against Rynn, and that the judge should have recused himself.

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).

First Transit's request to strike Rynn's opening brief and dismiss this appeal, set forth in the answering brief, is denied.

All pending motions are denied.

AFFIRMED.