

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2017

FOR THE NINTH CIRCUIT

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

AUDREY DAGMAR TOMERLIN

No. 15-56695

Plaintiff-Appellant,

D.C. No. 2:15-cv-01255-GW-MAN

v.

MEMORANDUM*

THE JOHNS HOPKINS UNIVERSITY,
INC.

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
George H. Wu, District Judge, Presiding

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Audrey Dagmar Tomerlin appeals pro se from the district court's judgment dismissing her diversity action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for lack of subject matter jurisdiction. *Assoc. of Am. Med. Colls. v. United States*, 217 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).

770, 778 (9th Cir. 2000). We affirm.

The district court properly dismissed Tomerlin's action for lack of subject matter jurisdiction because the Maryland state court retains exclusive jurisdiction over the interpretation and enforcement of the settlement agreement that is the subject of this dispute. *See Flanagan v. Arnaiz*, 143 F.3d 540, 544-45 (9th Cir. 1998) (court where settlement agreement was entered retains exclusive jurisdiction over the interpretation and enforcement of the agreement); *see also Assoc. of Am. Med. Colls.*, 217 F.3d at 778-79 (the party asserting jurisdiction bears the burden of establishing it).

We do not consider issues not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Tomerlin's motion for judicial notice (Docket Entry No. 20) and Johns Hopkins' motion for judicial notice (Docket Entry No. 28) are denied as unnecessary.

AFFIRMED.