

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2019

FOR THE NINTH CIRCUIT

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

PRESTON COLLECTION INC.,

No. 17-17073

Plaintiff-Appellee,

D.C. No. 2:15-cv-00607-NVW

v.

MEMORANDUM*

STEVEN YOUTSEY,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted March 5, 2019**
Pasadena, California

Before: FERNANDEZ and OWENS, Circuit Judges, and DONATO,*** District Judge.

Defendant Steven Youtsey appeals from the district court's order granting summary judgment to plaintiff Preston Collection Inc. ("Preston") on a loan

* 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).

*** The Honorable James Donato, United States District Judge for the Northern District of California, sitting by designation.

obligation. He also appeals the district court's determination of the rate of prejudgment interest. Because the parties are familiar with the facts, they will not be recounted here. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

We review a grant of summary judgment de novo. *Southland Sod Farms v. Stover Seed Co.*, 108 F.3d 1134, 1138 (9th Cir. 1997). The district court did not err in concluding that Youtsey had failed to raise any genuine dispute of material fact about his indebtedness to plaintiff, or the timeliness of plaintiff's action on the obligation under Ariz. Rev. Stat. § 12-508. See *Freeman v. Wilson*, 485 P.2d 1161, 1165-66 (Ariz. 1971); *John W. Masury & Son v. Bisbee Lumber Co.*, 68 P.2d 679, 689-92 (Ariz. 1937). The district court did not abuse its discretion in declining to credit Youtsey's conclusory allegations tendered in opposition to summary judgment. See *Wong v. Regents of the Univ. of Cal.*, 410 F.3d 1052, 1060 (9th Cir. 2005) ("Rulings regarding evidence made in the context of summary judgment are reviewed for an abuse of discretion.").

Because summary judgment was properly granted, the district court permissibly awarded attorney's fees to plaintiff. Ariz. Rev. Stat. § 12-341.01(A). We review de novo the district court's interpretation of Arizona law with respect to the rate of prejudgment interest. *Oak Harbor Freight Lines, Inc. v. Sears Roebuck & Co.*, 513 F.3d 949, 954 (9th Cir. 2008). The district court properly determined that the appropriate rate was 10% under Ariz. Rev. Stat. § 44-1201(A) and that the

parties had not agreed to a lower interest rate in lieu of the statutory rate.

AFFIRMED.