

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2018

FOR THE NINTH CIRCUIT

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

RICHARD LELAND NEAL,

Plaintiff-Appellant,

v.

B. MARC NEAL; et al.,

Defendants-Appellees.

No. 18-15612

D.C. No. 3:16-cv-08291-DLR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Douglas L. Rayes, District Judge, Presiding

Submitted December 17, 2018**

Before: WALLACE, SILVERMAN, and McKEOWN, Circuit Judges.

Richard Leland Neal appeals pro se from the district court's judgment dismissing his action alleging violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"). We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's denial of a motion for default

* 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).

judgment. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). We affirm.

The district court did not abuse its discretion in denying Neal’s motion for default judgment because defendants served a timely responsive motion to the amended complaint. *See* Fed. R. Civ. P. 55(a) (authorizing entry of default when defendant “has failed to plead or otherwise defend”).

We do not consider issues not raised in the opening brief. *See Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We review only issues which are argued specifically and distinctly in a party’s opening brief. We will not manufacture arguments for an appellant” (citations omitted)); *Acosta–Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1992) (issues not supported by argument in pro se appellant’s opening brief are waived).

AFFIRMED.