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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID B. FEE, Plaintiff-Appellant, v. WASHINGTON MUTUAL BANK, F.A.; et al., Defendants-Appellees.	No. 18-55502 D.C. No. 2:17-cv-06788-R-SK MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted December 17, 2018**

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

David B. Fee appeals pro se from the district court's judgment dismissing his action alleging various federal and state law claims related to his real property and foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal on the basis of claim preclusion.

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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).

Stewart v. U.S. Bancorp, 297 F.3d 953, 956 (9th Cir. 2002). We affirm.

The district court properly dismissed Fee's Truth in Lending Act ("TILA") claim on the basis of claim preclusion because the claim involved the same primary right raised in a prior state court action that resulted in a final judgment on the merits. *See San Diego Police Officers' Ass'n v. San Diego City Emps.' Ret. Sys.*, 568 F.3d 725, 734 (9th Cir. 2009) (federal court must follow state's preclusion rules to determine effect of a state court judgment; discussing elements of claim preclusion under California law).

The district court did not abuse its discretion by dismissing Fee's TILA claim without leave to amend because amendment would have been futile. *See Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 725-26 (9th Cir. 2000) (setting forth standard of review and explaining that "[a] district court acts within its discretion to deny leave to amend when amendment would be futile").

The district court did not abuse its discretion by denying Fee's motion for reconsideration under Federal Rule of Civil Procedure 60(b)(4) because Fee failed to demonstrate any basis for relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (setting forth grounds for relief under Rule 60(b)); *see also* Fed. R. Evid. 201(b); *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (court may take judicial notice of court filings and other matters of public record).

We reject as without merit Fee's contentions regarding the district court's jurisdiction or violation of his due process rights.

We do not consider matters 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).

AFFIRMED.