

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 13 2020

FOR THE NINTH CIRCUIT

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

JAY ELLIS POTTER,

Plaintiff-Appellant,

v.

CROSS COUNTRY MORTGAGE, INC.; et  
al.,

Defendants-Appellees.

No. 19-55597

D.C. No. 2:19-cv-01641-FMO-JC

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Fernando M. Olguin, District Judge, Presiding

Submitted May 6, 2020\*\*

Before: BERZON, N.R. SMITH, and MILLER, Circuit Judges.

Jay Ellis Potter appeals pro se from the district court's judgment dismissing for improper venue his action alleging federal and state law claims arising out of the foreclosure and sale of his property in Tennessee. We review de novo.

*Immigrant Assistance Project of the L.A. Cty. Fed'n of Labor (AFL-CIO) v. INS,*

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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).

306 F.3d 842, 868 (9th Cir. 2002). We have jurisdiction under 28 U.S.C. § 1291.

We affirm.

The district court properly dismissed Potter’s action for improper venue because Potter failed to establish that any defendant resides in the Central District of California or that a substantial part of the events or omissions giving rise to his claims occurred there. *See* 28 U.S.C. § 1391(b)(1), (2) (describing where a civil action may be brought); *see also* 28 U.S.C. § 1406(a) (“A district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.”).

We reject as meritless Potter’s contentions regarding leave to amend, and defendant Cross Country Mortgage, Inc.’s alleged tacit consent to venue in the Central District of California.

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).

All pending motions and requests are denied.

**AFFIRMED.**