

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 21 2021

FOR THE NINTH CIRCUIT

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

WILLIAM H. GILLIAM,

Plaintiff-Appellant,

v.

MIKE GALVIN, AKA J. Michael Galvin; et
al.,

Defendants-Appellees,

and

AIRBNB, INC.; AIRBNB PAYMENTS,
INC.,

Defendants.

No. 20-15308

D.C. No. 1:19-cv-00127-JAO-RT

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Jill Otake, District Judge, Presiding

Submitted September 14, 2021**

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

* 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). Gilliam's request for oral argument, set forth in his briefs, is denied.

William H. Gilliam appeals pro se from the district court's judgment dismissing his action alleging Lanham Act and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1040 (9th Cir. 2011). We affirm.

The district court properly dismissed Gilliam's Lanham Act false advertising claim because Gilliam failed to allege facts sufficient to state a plausible claim. *See* 15 U.S.C. § 1125(a)(1)(B); *Ariix, LLC v. NutriSearch Corp.*, 985 F.3d 1107, 1114-15 (9th Cir. 2021) (defining false advertising claim under Lanham Act and setting forth required elements of "commercial advertising or promotion" for such a claim).

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).

AFFIRMED.