

FILED**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SEP 21 2022

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

PERNELL EL, Society of the House of El (Waqf), religious and civic comity Pernell El/Trustee/Moorish Consul on behalf of the Heirs,

Plaintiff-Appellant,

v.

WELLS FARGO BANK, N.A.; CHARLES W. SCHARF; BRUCE ROSE; CARRINGTON MORTGAGE LLC, a limited liability corporation Erroneously Sued As Carrington Mortgage Services LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC.; LAWYERS TITLE, a Corporation,

Defendants-Appellees.

No. 21-55976

D.C. No. 2:21-cv-03137-AB-KES

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Andre Birotte, Jr., District Judge, Presiding

Submitted September 14, 2022**

Before: O'SCANLAIN, RAWLINSON, 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).

Pernell El appeals pro se from the district court's judgment dismissing his action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010) (dismissal under Federal Rule of Civil Procedure 12(b)(6)); *Smelt v. County of Orange*, 447 F.3d 673, 678 (9th Cir. 2006) (determination regarding standing). We affirm.

The district court properly dismissed El's action because El failed to demonstrate that he has standing to pursue these claims. *See Smelt*, 447 F.3d at 682-83 (elements of Article III standing; prudential standing requires a plaintiff to assert his own legal rights and interests). To the extent that El purported to bring this action on behalf of the Society of the House of El Waqf, El, a non-attorney, "has no authority to appear as an attorney for others than himself." *C.E. Pope Equity Tr. v. United States*, 818 F.2d 696, 697 (9th Cir. 1987).

The district court did not abuse its discretion in denying leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that denying leave to amend is proper when amendment would be futile).

The district court did not abuse its discretion in taking judicial notice of the publicly recorded documents relied on in its dismissal order. *See Fed. R. Evid.*

201(b)(2); *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1016 n.9 (9th Cir. 2012) (standard of review).

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).

El's motion for an injunction (Docket Entry No. 27) is denied.

AFFIRMED.

United States Court of Appeals for the Ninth Circuit

Office of the Clerk
95 Seventh Street
San Francisco, CA 94103

Information Regarding Judgment and Post-Judgment Proceedings**Judgment**

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)**Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)****(1) A. Purpose (Panel Rehearing):**

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- *See* Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- A response, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or response must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.
- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send an email or letter **in writing within 10 days** to:
 - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista (maria.b.evangelista@tr.com)));
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PERNELL EL, Society of the House of El (Waqf), religious and civic comity Pernell El/Trustee/Moorish Consul on behalf of the Heirs,

Case No. 2:21-cv-03137-AB-KES

JUDGMENT

Plaintiff.

v.

CHARLES SCHARF, an individual;
WELLS FARGO BANK, N.A., a
California Corporation; BRUCE
ROSE, an individual; CARRINGTON
MORTGAGE LLC, a limited liability
corporation; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEM INC. (MERS); LAWYERS
TITLE Corporation,

Defendants.

Pursuant to the Court’s August 25, 2021 Order granting the Motions to Dismiss filed by Charles Scharf, Wells Fargo Bank, Carrington Mortgage LLC, Mortgage Electronic Registration System Inc. (MERS), and Bruce Rose (“Defendants”).

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants shall have judgment in their favor against Plaintiff.

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1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff
2 take nothing and that Defendants shall have their costs of suit.

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4 Dated: September 03, 2021


5 HONORABLE ANDRÉ BIROTTE JR.
6 UNITED STATES DISTRICT COURT JUDGE
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