NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 22 2016

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

LE'ELDRED PALM, I, Plaintiff-Appellant, v. GO DADDY.COM, INC.; et al., Defendants-Appellees.	No. 15-15919 D.C. No. 2:14-cv-01656-SRB MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted November 16, 2016**

Before: LEAVY, SILVERMAN, and BERZON, Circuit Judges.

Le'Eldred Palm, I, appeals pro se from the district court's orders denying his motions for reconsideration in his action alleging violations of the Sherman Act. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

The filing of the second and third motions to reconsider did not toll the time to appeal the underlying dismissal or the first motion to reconsider. *See Swimmer v. IRS*,

* 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).

811 F.2d 1343, 1344-45 (9th Cir. 1987), *abrogated on other grounds by Briones v. Riviera Hotel & Casino*, 116 F.3d 379 (9th Cir. 1997). Thus, we do not consider Palm's contentions regarding the merits of the district court's order dismissing his action, or the district court's order denying his first motion for reconsideration, because Palm failed to timely file a notice of appeal. *See* Fed. R. App. P. 4(a)(1)(A) (notice of appeal must be filed within 30 days of judgment); *Stephanie-Cardona LLC v. Smith's Food & Drug Ctrs., Inc.*, 476 F.3d 701, 703 (9th Cir. 2007) ("A timely notice of appeal is a non-waivable jurisdictional requirement."); *Swimmer*, 811 F2.d at 1344-45.

In his opening brief, Palm fails to challenge the district court's orders denying his second and third motions to reconsider the dismissal of his underlying action, and he has therefore waived any such challenge. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) ("[O]n appeal, arguments not raised by a party in its opening brief are deemed waived."); *see also Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) ("We will not manufacture arguments for an appellant . . . .").

We reject as unsupported by the record Palm's contentions that the district court demonstrated prejudice against him or denied him due process.

AFFIRMED.