

DEC 27 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MILDRED C. FREESTON and SHIRSHA SUMERU,</p> <p style="text-align: center;">Plaintiffs - Appellants,</p> <p style="text-align: center;">v.</p> <p>BISHOP, WHITE & MARSHALL, P.S.; et al.,</p> <p style="text-align: center;">Defendants - Appellees,</p> <p>PIERCE COUNTY; et al.,</p> <p style="text-align: center;">Defendants.</p>

No. 10-35312

D.C. No. 3:09-cv-05560-BHS

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Benjamin H. Settle, District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Mildred C. Freeston and Shirsha Sumeru appeal pro se from the district

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

court's judgment dismissing their action under the Truth in Lending Act and state law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *King v. California*, 784 F.2d 910, 912 (9th Cir. 1986). We affirm.

The district court properly dismissed Appellants' state law claims because they failed to plead facts sufficient to state a cause of action for fraud or intentional infliction of emotional distress. *See Stiley v. Block*, 925 P.2d 194, 204 (Wash. 1996) (listing elements necessary for actionable fraud); *Birkliid v. Boeing Co.*, 904 P.2d 278, 286 (Wash. 1995) (listing elements necessary for an intentional infliction of emotional distress claim).

We do not consider contentions not raised in the opening brief, or regarding issues not raised below. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

Appellants' remaining contentions are unpersuasive.

Appellants' motions to supplement the record are denied.

AFFIRMED.