

JAN 22 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WINKAL HOLDINGS, LLC,

Plaintiff - Appellant,

v.

JPMORGAN CHASE BANK,

Defendant - Appellee,

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver of
Washington Mutual Bank,

Intervenor - Defendant -
Appellee.

No. 11-55807

D.C. No. 2:10-cv-04267-VBF-
FMO

MEMORANDUM*

ELBA, INC.; SIERRA SLOVER, LLC,

Plaintiffs - Appellants,

v.

JPMORGAN CHASE BANK, National
Association,

Defendant - Appellee,

No. 11-56817

D.C. No. 2:10-cv-09367-DSF-OP

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

and

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for
Washington Mutual Bank,

Intervenor - Appellee.

Appeal from the United States District Court
for the Central District of California
Valerie Baker Fairbank, District Judge, Presiding

Submitted January 8, 2013**
Pasadena, California

Before: KOZINSKI, Chief Judge, McKEOWN and M. SMITH, Circuit Judges.

Winkal and Elba's claims both fail under our holding in *GECCMC 2005-C1 Plummer St. Office Ltd. P'ship v. JPMorgan Chase Bank, Nat'l Ass'n*, 671 F.3d 1027 (9th Cir. 2012). Because the appellants are not intended third-party beneficiaries of the Purchase and Assumption Agreement between JPMorgan Chase Bank and the FDIC, they have no right under the federal common law to enforce the terms of the contract against Chase. *See id.* at 1032–35.

AFFIRMED.

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