

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 21 2016

FOR THE NINTH CIRCUIT

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

3BA PROPERTIES LLC,

No. 14-35591

Plaintiff,

D.C. No. 2:13-cv-00979-TSZ

and

KEVIN LUBAHN; BRENDA FORD,

MEMORANDUM*

Plaintiffs-Appellants,

v.

LARRY CLAUNCH; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Kevin LuBahn and Brenda Ford appeal from the district court's judgment dismissing their action alleging federal and state law claims. We have jurisdiction

* 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).

under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to effect timely service. *In re Sheehan*, 253 F.3d 507, 511 (9th Cir. 2001).

We affirm.

The district court did not abuse its discretion by dismissing plaintiffs' claims against defendant Larry Claunch because plaintiffs failed to establish good cause for failure to effect timely service of the summons and complaint. *See* Fed. R. Civ. Pro. 4(f); *Brockmeyer v. May*, 383 F.3d 798 (9th Cir. 2004) (outlining the ways in which service of process may be effectuated under Rule 4(f)).

We deny appellees' requests for costs or attorney's fees on appeal, set forth in their answering brief, without prejudice to filing a motion in accordance with the Federal Rules of Appellate Procedure and Ninth Circuit Rule 39-1.6.

AFFIRMED.