

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2017

FOR THE NINTH CIRCUIT

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

ELISSA GILLESPIE, wife; SEAN T.  
GILLESPIE, husband,

No. 08-17144

Plaintiffs-Appellees,

D.C. No. 2:08-cv-01253-SRB

v.

MEMORANDUM\*

DAN WISE, aka Danny Wise; CYNTHIA  
WISE; et al.,

Defendants-Appellants.

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

Submitted February 14, 2017\*\*

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

Cynthia Wise appeals pro se from the district court's default judgment in appellees' action alleging civil liability for violations of the Racketeer Influenced and Corrupt Organizations Act. We have jurisdiction under 28 U.S.C. § 1291. We

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\* 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).

review for an abuse of discretion the district court's order granting a motion for default judgment. *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 616 (9th Cir. 2016). We affirm.

The district court did not abuse its discretion in granting appellees' motion for default judgment because Wise failed to answer the complaint or otherwise appear, despite proof that she was personally served with the summons and complaint. *See id.* (discussing factors to determine whether to enter default judgment).

We do not consider Wise's arguments, presented for the first time on appeal, challenging the basis for the district court's default judgment. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

By separate order, this appeal has been dismissed as to appellant Dan Wise.

All pending motions are denied as moot.

**AFFIRMED.**