

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 18 2017

FOR THE NINTH CIRCUIT

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

YAN SUI; PEI-YU YANG,

Plaintiffs-Appellants,

v.

2176 PACIFIC HOMEOWNERS
ASSOCIATION, a California Corporation;
STEPHEN D. PRICE, an individual,

Defendants-Appellees.

No. 15-55706

D.C. No. 8:11-cv-01340-JAK-AJW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John A. Kronstadt, District Judge, Presiding

Submitted May 8, 2017**

Before: REINHARDT, LEAVY, and NGUYEN, Circuit Judges.

Yan Sui and Pei-Yu Yang appeal pro se from the district court's order denying their motions for sanctions and attorney's fees. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Holgate v.*

* 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).

Baldwin, 425 F.3d 671, 675 (9th Cir. 2005) (sanctions under Fed. R. Civ. P. 11); *Richard S. v. Dep't of Developmental Servs.*, 317 F.3d 1080, 1085 (9th Cir. 2003) (attorney's fees); *Barber v. Miller*, 146 F.3d 707, 709 (9th Cir. 1998) (sanctions under 28 U.S.C. § 1927). We affirm.

The district court properly denied plaintiffs' untimely motion presented to the district court seeking costs and attorney's fees incurred on appeal because plaintiffs failed to comply with the procedure set forth in Ninth Circuit Rule 39-1. *See Cummings v. Connell*, 402 F.3d 936, 947-48 (9th Cir. 2005) (a request for attorney's fees incurred on appeal must be filed with the court of appeals); *see also* 9th Cir. R. 39-1.6 (setting time limits for a request for fees on appeal).

The district court did not abuse its discretion by denying plaintiffs' motion for sanctions against defendants because plaintiffs did not demonstrate that they were entitled to an award of sanctions. *See Holgate*, 425 F.3d at 675-78 (setting forth requirements for sanctions under Fed. R. Civ. P. 11); *Barber*, 146 F.3d at 711 (setting forth requirements for sanctions under 28 U.S.C. § 1927).

AFFIRMED.