

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2018

FOR THE NINTH CIRCUIT

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

DAVID R. GELINAS; KAREN M.
GELINAS,

Plaintiffs-Appellants,

v.

U.S. BANK, as Trustee for LSF9 Master
Participation Trust; et al.,

Defendants-Appellees.

No. 17-35292

D.C. No. 2:16-cv-01468-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

David R. Gelinas and Karen M. Gelinas appeal pro se from the district court's judgment dismissing for failure to file an amended complaint their action alleging federal and state law claims arising from a pending foreclosure. We have

* 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).

jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1384 (9th Cir. 1996). We affirm.

In the opening brief, plaintiffs fail to address how the district court erred in dismissing their action for failure to prosecute. As a result, plaintiffs have waived their challenge to the district court's order. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We review only issues which are argued specifically and distinctly in a party's opening brief.”).

AFFIRMED.