

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 22 2018

FOR THE NINTH CIRCUIT

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

ROSS MASSBAUM; FLORINA
MASSBAUM,

Plaintiffs-Appellants,

v.

UNITED STATES OF AMERICA,
Erroneously Sued As Internal Revenue
Service,

Defendant-Appellee.

No. 17-56262

D.C. No. 8:17-cv-00650-DOC-JDE

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted March 13, 2018**

Before: LEAVY, M. SMITH, and CHRISTEN, Circuit Judges.

Ross and Florina Massbaum appeal pro se from the district court's judgment dismissing for lack of subject matter jurisdiction their action seeking repayment of funds paid to the Internal Revenue Service in relation to a dispute over their tax

* 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).

liabilities. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

In their opening brief, the Massbaums fail to address the basis for the district court's dismissal of their action. As a result, they have waived any challenges to the dismissal 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 will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim . . .”).

AFFIRMED.