

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 26 2018

FOR THE NINTH CIRCUIT

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

CEDRIC D. TURNER; RACHEL L.
THOMAS-TURNER,

Plaintiffs-Appellants,

v.

CALIBER HOME LOANS, INC.; et al.,

Defendants-Appellees.

No. 18-55535

D.C. No. 2:17-cv-08256-JFW-E

MEMORANDUM*

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

Submitted October 22, 2018**

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Cedric D. Turner and Rachel L. Thomas-Turner appeal pro se from the district court's order dismissing their action alleging violations of the Fair Debt Collection Practices Act ("FDCPA") and state law. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's dismissal

* 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).

pursuant to its local rules. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). We reverse and remand.

The district court dismissed appellants' action with prejudice because appellants failed to file and serve an opposition or notice of non-opposition to defendant's motion to dismiss. *See* C.D. Cal. R. 7-9. However, dismissal was premature because appellants' time to amend their complaint as a matter of course had not yet expired. *See* Fed. R. Civ. P. 15(a)(1)(B) (a party "may amend its pleading once as a matter of course . . . within 21 days after service of a motion under Rule 12(b) . . . "); *Ghazali*, 46 F.3d at 53 (discussing factors to guide the court's evaluation of a dismissal for failure to comply with the local rules).

In light of our disposition, we do not consider the district court's order denying appellants' motions for reconsideration.

REVERSED and REMANDED.