

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 11 2020

FOR THE NINTH CIRCUIT

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

STEPHEN H. JOHNSON; PAULA A.
JOHNSON,

No. 19-56358

Plaintiffs-Appellants,

D.C. No. 5:19-cv-01387-PA-GJS

v.

MEMORANDUM*

CALIBER HOME LOANS, INC.; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted June 2, 2020**

Before: LEAVY, PAEZ, and BENNETT, Circuit Judges.

Stephen H. Johnson and Paula A. Johnson appeal pro se from the district court's judgment dismissing their diversity action arising out of foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal based on claim preclusion. *Stewart v. U.S. Bancorp*, 297

* 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).

F.3d 953, 956 (9th Cir. 2002). We affirm.

The district court properly dismissed the Johnsons' action on the basis of claim preclusion because the action involved the same primary right raised in a prior state court action that resulted in a final judgment on the merits. *See San Diego Police Officers' Ass'n v. San Diego City Emps.' Ret. Sys.*, 568 F.3d 725, 734 (9th Cir. 2009) (federal court must follow state's preclusion rules to determine effect of a state court judgment; discussing elements of claim preclusion under California law).

The district court did not abuse its discretion by denying the Johnsons' motion to vacate or amend the judgment because the Johnsons failed to demonstrate any basis for such relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (standard of review and grounds for relief under Federal Rule of Civil Procedure 59(e) or 60(b)).

To the extent the Johnsons contend that the district court abused its discretion by denying their request for judicial notice of Richard A. Kalinoski, Jr.'s affidavit, we reject the contention as without merit. *See Fed. R. Evid. 201(b)*.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.