

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2021

FOR THE NINTH CIRCUIT

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

ROBERT GARVIN MOORE; TERESA
JEAN MOORE,

Appellants,

v.

PHH MORTGAGE CORPORATION; et al.,

Appellees.

No. 20-35877

D.C. No. 3:20-cv-05412-RJB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted December 14, 2021**

Before: WALLACE, CLIFTON, and HURWITZ, Circuit Judges.

Robert Garvin Moore and Teresa Jean Moore appeal pro se from the district court's order dismissing for failure to comply with a court order the appeal of their bankruptcy court action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to comply with a court order.

* 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).

Pagtalunan v. Galaza, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing the Moores' action because the Moores failed to file an opening brief by the deadline set by the district court. *See id.* at 640, 642-43 (discussing the five factors for determining whether to dismiss for failure to comply with a court order and noting that dismissal should not be disturbed absent "a definite and firm conviction" that the district court "committed a clear error of judgment" (citation and internal quotation marks omitted)); *see also* Fed. R. Bankr. P. 8018(a)(4) (district court may dismiss appeal on its own motion for failure to file a brief on time).

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).

The pending motions for judicial notice (Docket Entry Nos. 16 and 24) are denied as unnecessary.

AFFIRMED.