NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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U.S. COURT OF APPEALS

ROY E. HAHN, an individual; LINDA MONTGOMERY; THE ROY E. HAHN AND LINDA G. MONTGOMERY LIVING TRUST, an inter vivos trust established on May 22, 2000, Plaintiffs-Appellants, v. SELECT PORTFOLIO SERVICING, INC., Defendant-Appellee, and WASHINGTON MUTUAL BANK, F.A.; JPMORGAN CHASE BANK, N.A.; WAMU MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-AR16; NATIONAL DEFAULT SERVICING CORPORATION; DEUTSCHE BANK NATIONAL TRUST COMPANY, Defendants.	No. 20-15166 D.C. No. 3:18-cv-05629-JSC MEMORANDUM[*]

Appeal from the United States District Court
for the Northern District of California
Jacqueline Scott Corley, Magistrate Judge, Presiding

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[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Argued and Submitted April 10, 2023
San Francisco, California

Before: PAEZ, CLIFTON, and H.A. THOMAS, Circuit Judges.

Roy Hahn, Linda Montgomery, and The Roy E. Hahn and Linda G. Montgomery Living Trust (collectively, Hahn) appeal the district court's grant of summary judgment to Select Portfolio Servicing, Inc. (SPS). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

Hahn limits his appeal to a claim that SPS was negligent in its handling of his loan modification applications. While Hahn's appeal was pending, the Supreme Court of California decided *Sheen v. Wells Fargo Bank, N.A.*, 505 P.3d 625 (Cal. 2022). In *Sheen*, the court held that "a lender owes no tort duty sounding in general negligence principles to process, review and respond carefully and completely to the borrower's application," *id.* at 650 (quotation marks omitted). *Sheen* controls this case. SPS therefore did not owe Hahn a duty of care in handling his loan modification applications, and the district court properly granted summary judgment to SPS. *Cf. Weimer v. Nationstar Mortg., LLC*, No. C080550, 2022 WL 15665809, at *13–15 (Cal. Ct. App. Oct. 28, 2022) (applying *Sheen* and holding that plaintiff could not state a cause of action for negligence, even though lenders and servicers allegedly "acted unreasonably throughout the loan modification process").

AFFIRMED.