

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2024

FOR THE NINTH CIRCUIT

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

YAN SUI; PEI-YU YANG,

Plaintiffs-Appellants,

v.

RICHARD ALAN MARSHACK, an  
individual; et al.,

Defendants-Appellees.

No. 23-55391

D.C. No. 8:13-cv-01607-JAK-KES

MEMORANDUM\*

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

Submitted July 16, 2024\*\*

Before: SCHROEDER, VANDYKE, and KOH, Circuit Judges.

Yan Sui and Pei-Yu Yang appeal pro se from the district court's orders rejecting their post-judgment filings on the basis of a vexatious litigant order. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's application of a vexatious litigant pre-filing order. *In re Fillbach*,

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\* 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).

223 F.3d 1089, 1090 (9th Cir. 2000). We affirm.

The district court did not abuse its discretion by rejecting Sui and Yang’s motions because the proposed filings were within the scope of the district court’s pre-filing order. *See West v. Proconier*, 452 F.2d 645, 646 (9th Cir. 1971) (concluding that an order refusing to authorize filing of complaint was a “proper exercise of the district court’s authority to effectuate compliance with its earlier order”).

Sui and Yang’s request for mandamus relief, set forth in the opening brief, is denied. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650, 654-55 (9th Cir. 1977) (discussing five guidelines to determine whether the “extraordinary” remedy of mandamus is warranted).

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).

Sui and Yang’s motion to consolidate the appeals filed on April 14, 2023 and April 27, 2023 (Docket Entry No. 5) is denied as unnecessary. All other pending motions and requests are denied.

**AFFIRMED.**