

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 21 2017

FOR THE NINTH CIRCUIT

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

MICHAEL J. PENCE; TAUNI R. PENCE,

No. 15-16607

Plaintiffs-Appellants,

D.C. No. 2:14-cv-02587-ROS

v.

MEMORANDUM*

OCWEN LOAN SERVICING, LLC; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
Roslyn O. Silver, District Judge, Presiding

Submitted August 9, 2017**

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

Michael J. Pence and Tauni R. Pence appeal pro se from the district court's order dismissing their diversity action alleging state law claims arising out of the foreclosure sale of their property. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the dismissal of an action for failure to

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

** The panel unanimously concludes these cases are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

comply with a court order. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We affirm.

In their opening brief, plaintiffs fail to address how the district court erred by dismissing their action for failing to comply with the district court's order to file an amended complaint. As a result, plaintiffs have waived their challenge to the district court's order. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We review only issues which are argued specifically and distinctly in a party's opening brief.”).

Because we affirm the district court's order dismissing plaintiffs' action for failure to comply with the district court's order, we do not consider plaintiffs' arguments addressing the underlying merits of the action.

All pending requests and motions are denied.

AFFIRMED.