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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RANCHO MOUNTAIN PROPERTIES,
INC., a Delaware corporation,

Plaintiff - Appellee,

v.

RAY GRAY and LINDA GRAY,

Defendants - Appellants.

No. 12-56362

D.C. No. 3:11-cv-00358-BEN-
BLM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted June 6, 2014**
Pasadena, California

Before: D.W. NELSON, TROTT, and CALLAHAN, Circuit Judges.

Appellee Rancho Mountain Properties (“Rancho”) seeks to recover amounts owing on a guaranty executed by Appellants Ray and Linda Gray. The district court entered default against Linda Gray after she failed to appear, granted

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

summary judgment against Ray Gray, and entered a final judgment against the Grays in the amount of \$10,622,705.64. The Gray's arguments on appeal are meritless (if not frivolous). We affirm.

I

The district court did not abuse its discretion by denying Linda Gray's two motions to vacate entry of default, nor by granting Rancho's motion for default judgment. Linda Gray has no meritorious defense to the claim against her. See Fed. R. Civ. P. 55(c), 60(b)(1); TCI Grp. Life Ins. Plan v. Knoebber, 244 F.3d 691, 696–97 (9th Cir. 2001), overruled in part on other grounds by Egelhoff v. Egelhoff ex rel. Breiner, 532 U.S. 141 (2001).

II

The district court correctly granted summary judgment against Ray Gray. Rancho presented undisputed evidence in support of each element for a breach of guaranty, and Ray Gray did not show there was a genuine dispute as to any material fact. See Fed. R. Civ. P. 56(a); Spinks v. Equity Residential Briarwood Apartments, 90 Cal. Rptr. 3d 453, 475 (Cal. Ct. App. 2009). Indeed, Ray Gray's argument that the district court erred in refusing to allow him to file a response to the motion for summary judgment, which Gray's counsel copied and pasted almost verbatim from his original motion for an opportunity to respond, is frivolous. The

district court did in fact allow Ray Gray to file a response, and the very same attorney that represents Ray Gray in this appeal filed that response. Ray Gray's remaining arguments regarding alleged disputed facts are similarly meritless.

III

Finally, Ray Gray's argument that the district court "should not have considered" the supplemental declarations and exhibits that Rancho filed with its reply in support of the motion for summary judgment is similarly frivolous. The district court specifically stated in its order that "the Court d[id] not rely on the supplemental declaration and filings offered with [Rancho's] Reply," and Ray Gray has presented no evidence to the contrary.

AFFIRMED.