

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 22 2015

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

TRAVIS MIDDLETON; GILDA EVANS,

Plaintiffs - Appellants,

v.

INDYMAC MORTGAGE
SERVICES/ONEWEST BANK FSB,

Defendant,

and

ONEWEST BANK, FSB; et al.,

Defendants - Appellees.

No. 12-57324

D.C. No. 2:12-cv-06457-R-PJW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted October 14, 2015**

Before: SILVERMAN, BERZON, and WATFORD, Circuit Judges.

* 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). Accordingly, Appellants' requests for oral argument, set forth in their briefs, are denied.

Travis Middleton and Gilda Evans appeal pro se from the district court's judgment dismissing their action alleging various federal claims related to a home mortgage loan and foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1040 (9th Cir. 2011) (dismissal for failure to state a claim); *Lopez v. Candaele*, 630 F.3d 775, 784-85 (9th Cir. 2010) (dismissal for lack of Article III standing). We affirm.

The district court properly dismissed Middleton's claims because Middleton failed to allege facts sufficient to show an injury in fact. *See Lopez*, 630 F.3d at 785 (setting forth the elements of Article III standing).

The district court properly dismissed Evans's claims because Evans failed to allege facts sufficient to state any claim upon which relief could be granted. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (a pleading must offer more than "labels and conclusions or a formulaic recitation of the elements of a cause of action" (citation and internal quotation marks omitted)).

The district court did not abuse its discretion in denying leave to amend after concluding that amendment would be futile. *See Cervantes*, 656 F.3d at 1041 (setting forth standard of review and explaining that leave to amend should be given unless amendment would be futile).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

We reject Appellants' contentions that the district court erred by dismissing their claims without allowing discovery against defendants and without a jury trial.

Appellants' requests for judicial notice, set forth in their reply brief, are denied.

AFFIRMED.