

**WILLIAM ROBERT FAYANT; JULIE LORRAINE FAYANT,
Plaintiffs-Appellants,**

v.

U.S. BANK, Defendant-Appellee.

[No. 17-35097.](#)

United States Court of Appeals, Ninth Circuit.

Submitted October 23, 2017. ^[**]

Filed November 1, 2017.

Appeal from the United States District Court for the Eastern District of Washington; D.C. No. 2:16-cv-00139-SMJ, Salvador Mendoza, Jr, District Judge, Presiding.

Before: LEAVY, WATFORD, and FRIEDLAND, Circuit Judges.

NOT FOR PUBLICATION

MEMORANDUM ^[*]

William Robert Fayant and Julie Lorraine Fayant appeal from the district court's judgment dismissing their action alleging a Truth in Lending Act ("TILA") claim for rescission. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(6). [Serra v. Lappin, 600 F.3d 1191, 1195 \(9th Cir. 2010\)](#). We affirm.

The district court properly dismissed the Fayants' action as time-barred because the Fayants did not send a notice of rescission to defendant within three years of consummation of the loan. *See* 15 U.S.C. § 1635(f) (providing a right of rescission within three years of the date of the consummation of a loan if the lender fails to make required disclosures to the borrower); [Jesinoski v. Countrywide Home Loans, Inc., 135 S. Ct. 790, 792 \(2015\)](#) (a borrower may exercise right of rescission by notifying the lender of borrower's intent to rescind within three years after the transaction is consummated); [Miguel v. Country Funding Corp., 309 F.3d 1161, 1164 \(9th Cir. 2002\)](#) ("[Section] 1635(f) is a statute of repose, depriving the courts of subject matter jurisdiction when a § 1635 claim is brought outside the three-year limitation period."). **We reject as without merit the Fayants' contention that the subject loan transaction was not consummated.**

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 \(9th Cir. 2009\)](#).

AFFIRMED.

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

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