

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 20 2021

FOR THE NINTH CIRCUIT

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

MICHAEL McNALL; KARYL McNALL,

No. 19-17301

Plaintiffs-Appellants,

D.C. No. 3:16-cv-00889-LB

and

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff,

v.

PACIFIC RETIREMENT SERVICES,
INC., an Oregon corporation; REHAB
SPECIALISTS I, LLC, DBA Consonus
Rehab Services, an Oregon corporation,

Defendants-Appellees,

COTCHETT, PITRE & McCARTHY, LLP,

Intervenor.

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

Appeal from the United States District Court
for the Northern District of California
Laurel D. Beeler, Magistrate Judge, Presiding**

Submitted September 14, 2021***

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

Michael and Karyl McNall appeal pro se from the district court's judgment in their qui tam action alleging violations of the False Claims Act. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's ruling on an attorney's motion to withdraw. *United States v. Carter*, 560 F.3d 1107, 1113 (9th Cir. 2009). We affirm.

The district court did not abuse its discretion in granting Cotchett, Pitre & McCarthy, LLP's ("CPM") motion to withdraw as counsel for the McNalls because the McNalls were on notice that CPM wished to withdraw and were given a reasonable amount of time to find new counsel. *See* N.D. Cal. Civ. L.R. 11-5 (requirements for attorney withdrawal); Cal. R. Prof. Conduct 1.16 (grounds for attorney withdrawal and requirement that counsel take "reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client" prior to withdrawal);

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

Nehad v. Mukasey, 535 F.3d 962, 970 (9th Cir. 2008) (applying California Rules of Professional Conduct to attorney withdrawal).

The McNalls failed to include any argument in their opening brief regarding the district court's dismissal of their action, and thus have waived any challenge to that issue. *See McKay v. Ingleson*, 558 F.3d 888, 891 n.5 (9th Cir. 2009) (arguments not raised in an appellant's opening brief are waived).

CPM's unopposed motion to intervene (Docket Entry No. 31-1) is granted. The Clerk will file CPM's response brief (Docket Entry No. 31-2) and CPM's excerpts of record (Docket Entry No. 33).

The McNalls' request for an extension of time to file the reply brief, set forth in their reply in support of their motion for stay or extension of time (Docket Entry No. 43), is denied as moot.

AFFIRMED.