

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAN 23 2026

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

TORIO HOLMES; BRIAN BROWN,

Plaintiffs - Appellants,

v.

THE GREENBRIER COMPANIES, INC.,
c/o Greenbrier Gunderson Marine LLC,

Defendant - Appellee.

No. 24-3960

D.C. No. 3:23-cv-00329-SB

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Stacie F. Beckerman, Magistrate Judge, Presiding**

Submitted January 22, 2026***

Before: WARDLAW, CLIFTON, and R. NELSON, Circuit Judges.

Torio Holmes and Brian Brown appeal pro se from the district court's
summary judgment in their action alleging Title VII employment and state law

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

** 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).

claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court’s decision on cross-motions for summary judgment. *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, 970 (9th Cir. 2011). We affirm.

The district court properly granted summary judgment for defendant on plaintiffs’ negligence claims because the claims are barred under the Longshore and Harbor Workers’ Compensation Act’s (“LHWCA”) exclusivity provisions. *See Cruz v. Nat’l Steel & Shipbuilding Co.*, 910 F.3d 1263, 1267, 1269 (9th Cir. 2018) (explaining that “[w]hen the LHWCA applies, its remedy is ‘exclusive and in place of all other liability of the employer to the employee’” and describing circumstances in which it applies (quoting 33 U.S.C. § 905(a))).

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

AFFIRMED.