

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

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

DIPAK PATEL, an individual,

Plaintiff - Appellee,

v.

HERO, LLC, a California limited liability
company; HITESH PATEL, an
individual; RAHUL ARYA, an individual,

Defendants - Appellants,

and

PRAVIN PATEL, an individual, DOES, 1-
10,

Defendants.

No. 24-3627

D.C. No. 2:24-cv-02959-SVW-SSC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

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

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

Hero, LLC, Hitesh Patel, and Rahul Arya appeal from the district court's order remanding plaintiff's action to state court and awarding attorney's fees. We have jurisdiction under 28 U.S.C. § 1291 over the award of attorney's fees. We review for an abuse of discretion. *Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1250 (9th Cir. 2006). We affirm in part and dismiss in part.

The district court did not abuse its discretion by awarding attorney's fees because appellants lacked an objectively reasonable basis for removal. *See id.* at 1250 (explaining that attorney's fees should be awarded when the removing party lacked an objectively reasonable basis for removal).

We lack jurisdiction to review the district court's order remanding the removed action to state court because the district court's characterization of the remand order as based on a ground enumerated in 28 U.S.C. § 1447(c) is colorable. *See* 28 U.S.C. §§ 1447(c) (setting forth bases for remanding an action to state court), 1447(d) (stating that an order remanding an action to state court is "not reviewable on appeal or otherwise"); *Acad. of Country Music v. Cont'l Cas. Co.*, 991 F.3d 1059, 1067-68 (9th Cir. 2021) (explaining that § 1447(d) precludes review of remand orders based on one of the grounds in § 1447(c), so long as the district court's assertion of the ground was "colorable"); *Lively v. Wild Oats Markets, Inc.*, 456 F.3d 933, 942 (9th Cir. 2006) (explaining that the forum defendant rule, § 1442(b)(2), is a ground for remand under § 1447(c)).

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 in part, DISMISSED in part.