

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 6 2026

FOR THE NINTH CIRCUIT

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

ELIZABETH BOWERMAN, an Individual;
DEBRA DAVIS, an Individual; TIFFANY
FLEISCHER, an Individual; LISA-MARIE
HARRIS, an Individual; TIFFANY
GOODRICH, an Individual; MATTHEW
FIREBAUGH, an Individual; NOEL
KARR, an individual; AMY PEACHY
(PAYNE), an individual; BRENNNA RILEY,
an individual; ROBIN BIRD, an individual;
LAUREN FULTON, an individual;
CAMILLE COE (VALBERG), an
individual; STEVEN SHRINER, an
individual; JAY TERRY, an individual;
MARY STEINHOFF, an individual; LISA
HINDMAN, an individual,

Plaintiffs - Appellants,

v.

ST. CHARLES HEALTH SYSTEM, INC.,
a corporation,

Defendant - Appellee.

No. 24-5002

D.C. No.

6:23-cv-01488-MC

MEMORANDUM*

AMY PEACHY (PAYNE),

Plaintiff - Appellant,

No. 24-5338

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

v. ST. CHARLES HEALTH SYSTEM, INC., a corporation, Defendant - Appellee.	D.C. No. 6:24-cv-01037-MC
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BRENNA RILEY, Plaintiff - Appellant, v. ST. CHARLES HEALTH SYSTEM, INC., a corporation, Defendant - Appellee.	No. 24-5340 D.C. No. 6:24-cv-01043-MC
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JAY TERRY, Plaintiff - Appellant, v. ST. CHARLES HEALTH SYSTEM, INC., a corporation, Defendant - Appellee.	No. 24-5341 D.C. No. 6:24-cv-01096-MC
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STEVEN SCHRINER, Plaintiff - Appellant, v. ST. CHARLES HEALTH SYSTEM, INC., a corporation, Defendant - Appellee.	No. 24-5343 D.C. No. 6:24-cv-01068-MC
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NOEL KARR,

Plaintiff - Appellant,

v.

ST. CHARLES HEALTH SYSTEM, INC.,
a corporation,

Defendant - Appellee.

No. 24-5345

D.C. No.

6:24-cv-01027-MC

LISA HINDMAN,

Plaintiff - Appellant,

v.

ST. CHARLES HEALTH SYSTEM, INC.,
a corporation,

Defendant - Appellee.

No. 24-5347

D.C. No.

6:24-cv-01026-MC

CAMILLE COE (VALBERG),

Plaintiff - Appellant,

v.

ST. CHARLES HEALTH SYSTEM, INC.,
a corporation,

Defendant - Appellee.

No. 24-5348

D.C. No.

6:24-cv-01099-MC

Appeal from the United States District Court
for the District of Oregon
Michael J. McShane, Chief District Judge, Presiding

Submitted September 14, 2026**
Portland, Oregon

Before: W. FLETCHER, FRIEDLAND, and DE ALBA, Circuit Judges.

Plaintiffs, a group of former St. Charles Health System (“St. Charles”) employees who were terminated after seeking religious exemptions from COVID-19 vaccination requirements, timely appealed four district court orders: (1) the denial of their motion to extend time to appeal a July 1, 2024 order and judgment dismissing their operative complaint; (2) the dismissal on *res judicata* grounds of individually re-filed actions; (3) the denial of their motion for relief from the judgment under Federal Rule of Civil Procedure 60(b); and (4) the award of costs and attorney’s fees under Federal Rule of Civil Procedure 41(d). We have jurisdiction under 28 U.S.C. § 1291 over those timely appealed orders, and we affirm.

1. The district court did not abuse its discretion in denying Plaintiffs’ belated motion to extend time to appeal its July 1, 2024 order under Federal Rule of Appellate Procedure 4(a)(5). Plaintiffs’ notice of appeal was filed 43 days after entry of the July 1 order, and it therefore was untimely as to that order. *See* Fed. R. App. P. 4(a)(1). The district court reasonably concluded that counsel’s asserted

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

excuse—a mistaken belief that the court’s invitation to move for reconsideration tolled the appeal period—did not constitute excusable neglect. The district court’s discussion of counsel’s pattern of missing deadlines and disregarding court orders adequately addressed the relevant factors, even without reciting each by name. *See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 395 (1993); *M.D. ex rel. Doe v. Newport-Mesa Unified Sch. Dist.*, 840 F.3d 640, 643 (9th Cir. 2016) (“The district court may consider the *Pioneer* factors without discussing how much weight it gives to each.”).

2. Plaintiffs forfeited their challenge to the dismissal of the re-filed individual Hindman actions by failing to raise any arguments about the issue in their opening brief. *Collins v. City of San Diego*, 841 F.2d 337, 339 (9th Cir. 1988) (“It is well established in this Circuit that claims which are not addressed in the appellant’s brief are deemed abandoned.”). Plaintiffs do not discuss the concept of *res judicata* or cite the area of the record in which the district court dismissed their individual appeals on *res judicata* grounds. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (stating that we “cannot manufacture arguments for an appellant” and that we do not “consider any claims that were not actually argued in appellant’s opening brief” (citation modified)).

3. We reverse a district court’s denial of a Rule 60 motion “only if a district court does not apply the correct law, rests its decision on a clearly

erroneous finding of a material fact, or applies the correct legal standard in a manner that results in an abuse of discretion.” *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1100 (9th Cir. 2006) (citation modified). The district court made none of those errors. Despite the district court’s express instruction to focus on new facts, Plaintiffs’ motion reasserted the same legal theories already rejected by the district court and failed to identify grounds for relief. A Rule 60(b) motion is not a vehicle for rehashing the same arguments already rejected, but for identifying “mistake, inadvertence, surprise, or excusable neglect.” Fed. R. Civ. P. 60(b); *Maraziti v. Thorpe*, 52 F.3d 252, 255 (9th Cir. 1995) (holding that a Rule 60(b) motion was properly denied where it “merely reiterated the arguments that [the plaintiff] had already presented to the district court”).

4. Plaintiffs have not demonstrated that the district court erred in awarding St. Charles costs and attorney’s fees under Rule 41(d). Because the threshold entitlement determination was made in the July 1, 2024, order, and because that order was not timely appealed, the district court’s decision to grant fees is not properly before us. *See McNeil v. Gittere*, 150 F.4th 1205, 1211 (9th Cir. 2025) (noting that where an “appeal is untimely, . . . we lack jurisdiction to review the case”). As to the amount awarded, Plaintiffs filed no opposition to St. Charles’s supplemental motion in the district court and raise no challenge to the calculation on appeal. *Cf. Walker v. California*, 200 F.3d 624, 626 (9th Cir. 1999)

(holding that a failure to object to a bill of costs in the district court forfeited the right to challenge the award on appeal).

AFFIRMED.¹

¹ St. Charles's Motion to Supplement or Correct the Record, Dkt. No. 55, and Motion for Judicial Notice, Dkt. No. 56, are denied as moot. The Lorica Institute for Freedom of Expression and Religion's opposed Motion for Leave to File an Amicus Brief, Dkt. No. 33, is denied as irrelevant to this appeal.