NOT FOR PUBLICATION

FILED

OCT 30 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHERRI LAZELLE; MICHAEL LAZELLE,

Plaintiffs - Appellants,

v.

MOUNTAIN VALLEY HOMEOWNERS ASSOCIATION, (MVHOA), a Non-Profit Corporation; JEREMY YABLAN, an individual; SAM SHEWA, AKA Sabawoon Shewa, an individual; AKA, Sabawoon Shewa; CALIFORNIA HOA SOLUTIONS, LLC, a limited liability company; STEVEN WAISBREN Esquire, Attorney, an individual; LAW OFFICES OF STEVEN D. WAISBREN; FREEMAN MATHIS & GARY, LLP, a California limited liability partnership; CHRISTOPHER J. WEBER, an individual; PHILADELPHIA INDEMNITY INSURANCE CO, a Pennsylvania corporation; BERMAN, BERMAN, BERMAN, SCHNEIDER & LOWARY LLP, a California limited liability partnership; LORDON MANAGEMENT, a California property management Corporation; DONALEA MELCHINGBAUER, an individual; DEVON WOODS, an individual; DAVID

No. 25-3264

D.C. No. 2:25-cv-03006-MWF-RAO

MEMORANDUM*

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

RIDDICK, an individual; TIM GERSDORFF, an individual; CO-NAN ENTERPRISES, LLC, a California limited liability company; TRANSLUCENT, LLC, a California limited liability company; NANCY BANFIELD, an individual; KRISTENA BANFIELD, an individual; ALL OTHER CURRENT AND FORMER HOA BOARD MEMBERS, from 2018 to present who participated in or failed to prevent the fraud; KFY UNITED MECHANICAL CONTRACTORS, INC.,

Defendants - Appellees.

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted October 27, 2026[**]

Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Sherri LaZelle and Michael LaZelle appeal pro se from the district court's order remanding sua sponte thirteen civil and criminal actions to state court. We have jurisdiction under 28 U.S.C. § 1447(d). *BP P.L.C. v. Mayor & City Council of Balt.*, 593 U.S. 230, 238 (2021) (holding that where 28 U.S.C. § 1443 is asserted as a ground for removal, appellate courts may review the entirety of the district court's remand order). We review de novo a district court's decision to remand a

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

removed case and its determination that it lacks subject matter jurisdiction. *Corona-Contreras v. Gruel*, 857 F.3d 1025, 1028 (9th Cir. 2017). We affirm.

The district court properly remanded for lack of subject matter jurisdiction the civil and criminal cases in which Sherri LaZelle was a defendant because the LaZelles failed to establish federal question jurisdiction or a basis for civil rights jurisdiction. *See* 28 U.S.C. §§ 1441(a) (providing removal jurisdiction for civil actions if the district court has original jurisdiction), 1331 (setting forth requirements for original jurisdiction), 1443(1) (providing removal jurisdiction for civil and criminal actions alleging violations of equal civil rights where one cannot enforce such rights in state court); *K2 Am. Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024, 1029 (9th Cir. 2011) ("Federal jurisdiction cannot hinge upon defenses or counterclaims, whether actual or anticipated."); *Patel v. Del Taco, Inc.*, 446 F.3d 996, 998-99 (9th Cir. 2006) (stating the Supreme Court's two-part test for removal under § 1443(1)), *abrogated on other grounds by BP P.L.C.*, 593 U.S. at 238-39; *see also* 28 U.S.C. § 1455(b)(4) ("If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.").

The district court properly remanded the civil cases in which either or both Sherri LaZelle and Michael LaZelle were plaintiffs because plaintiffs have no right to remove a state court case to federal court. *See Am. Int'l Underwriters*

(Philippines), Inc. v. Cont'l Ins. Co., 843 F.2d 1253, 1260 (9th Cir. 1988) ("A plaintiff who commences his action in a state court cannot effectuate removal to a federal court even if he could have originated the action in a federal court and even if a counterclaim is thereafter filed that states a claim cognizable in a federal court." (citation and internal quotation marks omitted)).

The motion (Docket Entry No. 6) for an extension of time to file the opening brief is granted. The Clerk is directed to file the LaZelles' opening brief at Docket Entry No. 7. All other motions and requests are denied.

AFFIRMED.