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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ELIZABETH UNGUREANU; DANIEL
UNGUREANU,

Plaintiffs - Appellants,

v.

A. TEICHERT & SON, INC.; RONALD
WOLFSON,

Defendants - Appellees.

No. 13-16198

D.C. No. 2:12-cv-03109-TLN-
KJN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted March 10, 2015**

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Elizabeth and Daniel Ungureanu appeal pro se from the district court's judgment dismissing their employment action alleging federal and state law violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

district court's dismissal for failure to state a claim, *Dworkin v. Hustler Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989), and its denial of a motion to remand, *Chapman v. Deutsche Bank Nat'l Trust Co.*, 651 F.3d 1039, 1043 (9th Cir. 2011). We affirm.

Contrary to the Ungureanus' contentions, the district court properly treated defendants' motion to dismiss as timely. *See* Fed. R. Civ. P. 12(c), (h)(2)(b) (describing time limits for filing a motion to dismiss). Further, their allegations do not identify any new fraud, and the application of claim preclusion was appropriate.

The district court properly denied the Ungureanus' motion to remand their state law claims to state court because the state and federal claims are part of the same case or controversy, affording the district court supplemental jurisdiction over the state law claims. *See* 28 U.S.C. § 1367(a); *Bahrampour v. Lampert*, 356 F.3d 969, 978 (9th Cir. 2004) (discussing when a court may exercise supplemental jurisdiction). As a result, their argument regarding the timeliness of their motion to remand is irrelevant.

Teichert's request for fees and costs is denied without prejudice to filing a proper motion under Federal Rule of Appellate Procedure 38.

AFFIRMED.