

JUL 31 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD HARP; et al.,

Plaintiffs - Appellants,

v.

THOMAS W. HARDY,

Defendant - Appellee.

No. 08-35394

D.C. No. 4:06-CV-00008-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted July 29, 2009**

Before: WALLACE, LEAVY, and HAWKINS, Circuit Judges.

Richard Harp and his wife appeal pro se from the district court's post-judgment order denying a motion to remand this wrongful discharge action to

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

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

Montana state court. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for an abuse of discretion, *United Computer Sys., Inc. v. AT & T Corp.*, 298 F.3d 756, 760 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion by denying the motion to remand because it was filed after the case had been adjudicated on the merits and there was nothing left to remand.

To the extent that appellants challenge the underlying order dismissing the action, we lack jurisdiction to review that order because the notice of appeal was filed more than sixty days after judgment was entered. *See Fed. R. App. P. 4(a)(1)(B); United Computer Sys.*, 298 F.3d at 761 (explaining that the Court lacks jurisdiction to review judgments for which a notice of appeal was not filed timely).

AFFIRMED.