

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Robert Ashman and Elisa Tarrant v. Bristol Hospice–California,
LLC, and Does 1-30

Ashman v. Bristol Hospice · No. 5:24-cv-02652-SRM-SHK · Decided September 16, 2025

SUMMARY

The United States District Court for the Central District of California granted in part Plaintiffs Robert Ashman and Elisa Tarrant’s motion to remand an action against Bristol Hospice–California, LLC. The court held that the defendant’s three-day-late removal, caused by a calendaring error, was not excused and remanded the case to Riverside County Superior Court. The court also awarded Plaintiffs \$5,771.50 in attorneys’ fees and costs under 28 U.S.C. § 1447(c).

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Serena R. Murillo
JURISDICTION	United States District Court for the Central District of California
DECIDED	September 16, 2025
DOCKET	5:24-cv-02652-SRM-SHK
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiffs moved to remand a removed state-law action to California superior court and sought attorney's fees and costs under 28 U.S.C. § 1447(c).
STANDARD OF REVIEW	Removal statutes are strictly construed against removal, and the removing defendant bears the burden of establishing that removal is proper. A procedural removal defect must be remanded when timely asserted; attorney's fees under 28 U.S.C. § 1447(c) depend on whether the removing party had an objectively reasonable basis for removal.
PRECEDENTIAL VALUE	Unknown; unpublished federal district court order.
PARTIES	Robert Ashman, Elisa Tarrant v. Bristol Hospice–California, LLC, Does 1-30

TOPICS

civil procedure

attorney fees

costs

waiver

PRACTICE AREAS

civil procedure

removal and remand

attorney fees

costs

QUESTIONS PRESENTED

1. Whether a defendant's calendaring error constitutes excusable neglect permitting an untimely notice of removal.
2. Whether Plaintiffs were entitled to attorney's fees and costs under 28 U.S.C. § 1447(c) because Defendant lacked an objectively reasonable basis for removal.

HOLDINGS

1. A defendant's calendaring error does not constitute excusable neglect that permits an untimely notice of removal under 28 U.S.C. § 1446(b), and the mandatory thirty-day removal deadline requires remand when timely challenged.
2. Plaintiffs were entitled to reasonable attorney's fees and costs under 28 U.S.C. § 1447(c) because Bristol Hospice lacked an objectively reasonable basis for its untimely removal.

KEY QUOTATIONS

“The removal statute is strictly construed against removal,” (at 3)

“The ‘strong presumption’ against removal jurisdiction means that the defendant always has the burden of establishing that removal is proper.” (at 3)

“Thus, Defendant’s counsel was undoubtedly aware that its reliance on Pioneer too was misplaced, yet proceeded to oppose Plaintiffs’ Motion on this basis.” (at 5)

FACTUAL BACKGROUND

Plaintiffs brought several California state-law claims against Bristol Hospice in Riverside County Superior Court. Bristol Hospice's counsel accepted service and returned a signed notice and acknowledgment of receipt on November 13, 2024, triggering the thirty-day removal period. Although Bristol Hospice timely filed an answer in state court on December 13, 2024, counsel miscalculated the removal deadline and removed the action three days late after Plaintiffs declined to waive the defect.

PROCEDURAL HISTORY

Plaintiffs filed California state-law claims in Riverside County Superior Court. Defendant accepted service, returned a signed notice and acknowledgment of receipt on November 13, 2024, and filed an answer in state court on December 13, 2024, but removed the action three days after the applicable thirty-day removal deadline. Plaintiffs moved to remand and requested fees and costs; after transfer of the federal action, the district court granted remand and awarded \$5,771.50 in fees and costs.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the Riverside County Superior Court. Bristol Hospice was ordered to pay Plaintiffs' counsel \$5,771.50 in attorney's fees and costs.

CASES CITED

- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Kuxhausen v. BMW Fin. Servs. NA LLC, 707 F.3d 1136, 1142 n.4 (9th Cir. 2013)
- Fristoe v. Reynolds Metals Co., 615 F.2d 1209, 1212 (9th Cir. 1980)
- Babasa v. LensCrafters, Inc., 498 F.3d 972, 974 (9th Cir. 2007)
- Things Remembered, Inc. v. Petrarca, 516 U.S. 124, 128 (1995)
- Martin v. Franklin Capital Corp., 546 U.S. 132, 140-41 (2005)
- Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380 (1993)
- Pincay v. Andrews, 389 F.3d 853, 855 (9th Cir. 2004) (en banc)
- 88 Int'l Inc. v. Hartford Cas. Ins. Co., No. CV-12-099442-DMG-SHX, 2014 WL 12607693, at *1-2 (C.D. Cal. Mar. 17, 2014)
- Jones v. Walmart, No. 1:20-cv-00729-DAD-BAM, 2020 WL 8614081, at *2 (E.D. Cal. Sept. 8, 2020)
- Gurrola v. Howard, No. 2:22-cv-01825-SB-JEM, 2022 WL 1617991, at *2 (C.D. Cal. May 21, 2022)
- DeMichele v. Loewen, Inc., No. C 12-00628 CRB, 2012 WL 1980828, at *1, *3 (N.D. Cal. June 1, 2012)
- Lussier v. Dollar Tree Stores, Inc., 518 F.3d 1062, 1065-66 (9th Cir. 2008)
- Lott v. Pfizer, Inc., 492 F.3d 789, 793 (7th Cir. 2007)
- MG Star LLC v. AmGUARD Ins. Co., No. 1:23-cv-00560-JLT-EPG, 2023 WL 4488279, at *3 (E.D. Cal. July 12, 2023), report and recommendation adopted, 2023 WL 5436008 (E.D. Cal. Aug. 23, 2023)
- Albion Pac. Prop. Resources, LLC v. Seligman, 329 F. Supp. 2d 1163, 1164 (N.D. Cal. 2004)
- McMaster v. Coca-Cola Bottling Co. of California, 392 F. Supp. 2d 1107, 1115-16 (N.D. Cal. 2005)
- Ansley v. Ameriquet Mortg. Co., 194 F. Supp. 2d 1062 (C.D. Cal. 2002), aff'd, 340 F.3d 858 (9th Cir. 2003)

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