

OCT 13 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CONCRETE WASHOUT SYSTEMS, INC.,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>NEATON COMPANIES, LLC,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 09-16236

D.C. No. 2:08-cv-02088-GEB-
KJM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON and CLIFTON, Circuit Judges.

Defendant-appellant Neaton Companies, LLC, appeals the district court's
denial of a motion to dissolve a preliminary injunction against it in an action filed

* 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).

by plaintiff-appellee Concrete Washout Systems, Inc. based on breach of contract.

We have jurisdiction under 28 U.S.C. § 1292(a)(1), and we affirm.

We express no view on the merits of the complaint. Our sole inquiry is whether the district court abused its discretion in denying the motion to dissolve the preliminary injunction. *Sharp v. Weston*, 233 F.3d 1166, 1169-70 (9th Cir. 2000); *Tracer Research Corp. v. National Env'tl. Servs. Co.*, 42 F.3d 1292, 1294 (9th Cir. 1994) (reviewing for abuse of discretion). We do not consider the propriety of the underlying order, but limit our review to the new material presented with respect to the motion to dissolve. *Sharp* at 1169-70. Here, appellant does not argue a change in the law and has presented no new facts to warrant dissolution. We conclude the district court did not abuse its discretion. Accordingly, we affirm the district court's order denying the motion to dissolve the preliminary injunction.

AFFIRMED.