

JUN 28 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GARY SOLOMON,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>BANK OF AMERICA HOME LOANS; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
--

No. 10-17663

D.C. No. 2:10-cv-00841-PMP-PAL

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted June 15, 2011**

Before: CANBY, O'SCANNLAIN and TALLMAN, Circuit Judges.

Plaintiff-appellant Gary Solomon appeals the district court's denial of his request for preliminary injunctive relief against defendants-appellees. Our

* 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).

jurisdiction is governed by 28 U.S.C. § 1292(a)(1). We dismiss the appeal as moot.

The district court denied Solomon's request for a preliminary injunction seeking to stay foreclosure proceedings. After Solomon filed this appeal, the district court issued a final judgment dismissing the underlying action against all defendants. We determine questions of mootness in light of the present circumstances. *Mitchell v. Dupnik*, 75 F.3d 517, 528 (9th Cir. 1996). Because the facts and circumstances supporting the preliminary injunction application have materially changed, we cannot grant the requested relief. *Doe and Associates Law Offices v. Napolitano*, 252 F.3d 1026, 1029 (9th Cir. 2001) (holding that dismissal of underlying action renders moot the district court's denial of preliminary injunctive relief). Accordingly, this appeal is moot.

DISMISSED.