

AUG 01 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PASQUALE PUCELLA; MICHELA
AFFLITTO,

Plaintiffs - Appellees,

v.

SONOMA COFFEE CAFÉ LLC; et al.,

Defendants,

and

BECKY SMITH; GORDON SMITH,

Defendants - Appellants.

No. 12-17433

D.C. No. 2:12-cv-00417-ROS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Roslyn O. Silver, District Judge, Presiding

Submitted July 22, 2014**

Before: GOODWIN, CANBY, and CALLAHAN, Circuit Judges.

* 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).

Becky and Gordon Smith appeal pro se from the district court's judgment confirming an arbitration award against them due to their noncompliance with a local rule. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam). We reverse and remand.

Because a review of the record shows that the arbitrator did not impose any liability against the Smiths in the arbitration award, summary confirmation of the arbitration award against the Smiths was improper. *See United States v. Prairie Pharmacy, Inc.*, 921 F.2d 211, 212 (9th Cir. 1990) (a district court abuses its discretion where "the record contains no evidence on which it could rationally base its decision" (citation and internal quotation marks omitted)).

Accordingly, we reverse the district court's judgment against the Smiths and remand for further proceedings consistent with this disposition. We do not reach the Smiths' remaining contentions and we do not disturb the district court's judgment against any other defendant.

Appellees' request for attorneys' fees and costs, set forth in their answering brief, is denied.

REVERSED and REMANDED.