

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2018

FOR THE NINTH CIRCUIT

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

JES SOLAR COMPANY LIMITED, a
South Korean Corporation; et al.,

Plaintiffs-Appellees,

v.

TONG SOO CHUNG,

Defendant-Appellant.

No. 16-15504

D.C. No. 4:12-cv-00626-DCB
District of Arizona,
Tucson

ORDER AMENDING
MEMORANDUM

JES SOLAR COMPANY LIMITED, a
South Korean Corporation; et al.,

Plaintiffs-Appellees,

v.

TONG SOO CHUNG,

Defendant,

and

SUNGCHIN KIM, referenced in complaint
as S. Chin Kim,

Defendant-Appellant.

No. 16-16091

D.C. No. 4:12-cv-00626-DCB

Before: GOULD and WATFORD, Circuit Judges, and SANDS,* District Judge.

* The Honorable W. Louis Sands, United States District Judge for the Middle District of Georgia, sitting by designation.

The memorandum disposition in the above-captioned matter filed on February 12, 2018 is amended as follows:

At page 8, lines 7–10, change <Here, because the inadequate service provided Chung and Kim with a meritorious defense and established that they were not at fault for the defaults, the district court abused its discretion in failing to set aside the defaults. *See id.* at 463–64.> to <Here, because vacating the default judgment would cause no “greater harm than simply that relief would delay resolution of the case,” *Lemoge v. United States*, 587 F.3d 1188, 1196 (9th Cir. 2009), and the inadequate service provided Chung and Kim with a meritorious defense and established that they were not at fault for the defaults, the district court abused its discretion in failing to set aside the defaults. *See Falk*, 739 F.2d at 463–64.>.

The panel has voted to deny the petition for panel rehearing. Judges Gould and Watford have voted to deny the petition for rehearing en banc, and Judge Sands has so recommended. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35. The petition for panel rehearing and the petition for rehearing en banc are denied.

No future petitions for rehearing or rehearing en banc will be entertained.

IT IS SO ORDERED.