

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 30 2026

FOR THE NINTH CIRCUIT

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

ROBERTO DIAZ DE LEON; GREGORY  
McGRIFF,

Plaintiffs - Appellees,

v.

SOLAR MOSAIC, LLC,

Defendant - Appellant.

No. 25-262

D.C. No.

3:24-cv-04081-VC

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Vince Chhabria, District Judge, Presiding

Submitted June 26, 2026\*\*  
San Francisco, California

Before: MURGUIA, Chief Judge, and KOH and H.A. THOMAS, Circuit Judges.

Solar Mosaic appeals the district court's order denying its motion to compel arbitration. Roberto Diaz de Leon and Gregory McGriff (together, "Plaintiffs") both signed identical arbitration agreements, which require all claims, including all

---

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

claims for equitable and injunctive relief, to go to arbitration. The district court held that under California law the arbitration agreement was unenforceable as to Plaintiffs' suit because the arbitration agreement denies Plaintiffs a forum to seek public injunctive relief, as defined by California law, and Plaintiffs seek public injunctive relief in this case. *See McGill v. Citibank, N.A.*, 393 P.3d 85, 87 (Cal. 2017); *Hodges v. Comcast Cable Commc'ns, LLC*, 21 F.4th 535, 539-48 (9th Cir. 2021). Solar Mosaic appealed. We have jurisdiction under 9 U.S.C. § 16. We dismiss this appeal and remand for further proceedings.

Plaintiffs' requests for public injunctive relief, this case, and the issues in this appeal may be moot. Solar Mosaic filed this appeal on January 15, 2025, and filed its opening brief on June 4, 2025. Dkt 1, 12. Just two days later, on June 6, 2025, Solar Mosaic filed a voluntary petition for bankruptcy, and on June 9, 2025, Solar Mosaic filed a notice of automatic stay of this appeal pursuant to 11 U.S.C. § 362. *See* Dkts. 18, 19. While the automatic stay was in place, “[t]he bankruptcy court confirmed Mosaic’s Chapter 11 Plan in September 2025, and the confirmed plan provides for liquidation and wind-down rather than reorganization and ongoing operations . . . .”<sup>1</sup> On November 20, 2025, over two months after the

---

<sup>1</sup> Solar Mosaic’s request for judicial notice, Dkt. 39, is granted. *See Avilez v. Garland*, 69 F.4th 525, 527 n.3 (9th Cir. 2023) (“[W]e may take notice of proceedings in other courts . . . if those proceedings have a direct relation to matters at issue.” (citation modified)). Solar Mosaic’s motion to supplement the record, Dkt. 38, is denied.

bankruptcy court confirmed Solar Mosaic’s Chapter 11 Plan, the parties filed a joint motion to lift the stay in this appeal, which we granted on November 24, 2025. *See* Dkts 20, 21. Plaintiffs filed their answering brief on January 21, 2026. Dkt. 26. On March 13, 2026, Solar Mosaic filed its reply brief, Dkt. 37, in which it argued for the first time that Plaintiffs’ request for injunctive relief, this case, and the issues in this appeal are moot because Solar Mosaic “cannot lawfully continue as an operating business.”

The mootness questions raised by Solar Mosaic’s bankruptcy are highly fact intensive and the facts themselves, including the status of Solar Mosaic’s wind down, are far from clear. It is also unclear how Solar Mosaic’s wind down impacts Plaintiffs’ various claims for relief and Plaintiffs’ ability to proceed in federal court. Because Solar Mosaic raised these issues only in its reply brief and a concurrently filed request for judicial notice, Plaintiffs have not had a full opportunity to respond. Thus, we dismiss this appeal and remand for further proceedings so that the district court can consider in the first instance these new facts, whether to grant Plaintiffs discovery, any potential mootness issues, or any Federal Rule of Civil Procedure 60(b) motion. *See First Beverages, Inc. of Las Vegas v. Royal Crown Cola Co.*, 612 F.2d 1164, 1172 (9th Cir. 1980) (“The proper approach to seeking relief from [an order] because of a change in the factual circumstances surrounding this case would be to make a Rule 60(b) motion . . .”).

We do not prejudge the outcome of the district court's consideration of these issues.

**DISMISSED AND REMANDED.**