NOT FOR PUBLICATION

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUNPING MA, Plaintiff - Appellee, v. LEI WANG; QINGMING FANG, Defendants - Appellants.	No. 25-4339 D.C. No. 8:21-cv-00441-MCS-ADS MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
Mark C. Scarsi, District Judge, Presiding

Submitted October 26, 2026[**]
Pasadena, California

Before: R. NELSON and H.A. THOMAS, Circuit Judges, and MARTÍNEZ-OLGUÍN, District Judge.[***]

Defendants-Appellants Qingming Fang and Lei Wang appeal the district court's denial of their motion for relief from judgment under Federal Rule of Civil

[*] 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).

[***] The Honorable Araceli Martínez-Olguín, United States District Judge for the Northern District of California, sitting by designation.

Procedure 60(b)(5). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

We review the denial of a Rule 60(b)(5) motion for abuse of discretion. *Marroquin v. City of Los Angeles*, 112 F.4th 1204, 1211 (9th Cir. 2024). "A district court abuses its discretion if it does not apply the correct law or if it rests its decision on a clearly erroneous finding of material fact." *United States v. Asarco Inc.*, 430 F.3d 972, 978 (9th Cir. 2005) (citation modified). "De novo review is appropriate for the question as to which legal standard should be used to assess a party's Rule 60(b)(5) motion." *Bellevue Manor Assocs. v. United States*, 165 F.3d 1249, 1252 (9th Cir. 1999).

The district court did not abuse its discretion in denying Defendants-Appellants' Rule 60(b)(5) motion. "Confirmation of foreign arbitration awards is governed by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, known as the New York Convention, and federal law implementing the Convention, 9 U.S.C. §§ 201-208." *Ministry of Def. & Support for the Armed Forces of the Islamic Republic of Iran v. Cubic Def. Sys., Inc.*, 665 F.3d 1091, 1095 (9th Cir. 2011). Defendants-Appellants have not identified any controlling authority approving the use of Rule 60(b)(5) to offset, modify, or vacate a judgment confirming a foreign arbitral award where the arbitral body in the primary jurisdiction has not set aside the award. And a request for Rule 60(b) relief based on a claim the judgment has been satisfied stands in

tension with Article V of the New York Convention. *See* 9 U.S.C. § 207.[1]

AFFIRMED.

[1] Because the document Defendants-Appellants sought judicial notice of is not relevant to the disposition of this appeal, we deny Defendants-Appellants' motion for judicial notice as moot. *See Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 777 n.3 (9th Cir. 2017) (motion for judicial notice denied as moot when the noticed documents were not relevant to the disposition).