

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MAY 27 2026

FOR THE NINTH CIRCUIT

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

PEOPLE OF THE STATE OF  
CALIFORNIA, by and through Dawyn R.  
Harrison, County Counsel for the County of  
Los Angeles; COUNTY OF LOS  
ANGELES,

Plaintiffs - Appellees,

v.

CHIQUITA CANYON, LLC, a Delaware  
limited liability company; CHIQUITA  
CANYON, INC., a Delaware corporation;  
WASTE CONNECTIONS US, INC.,

Defendants - Appellants.

No. 25-5754

D.C. No.

2:24-cv-10819-MEMF-MAR

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Maame Ewusi-Mensah Frimpong, District Judge, Presiding

Submitted May 22, 2026\*\*  
Pasadena, California

Before: LEE, BUMATAY, and SUNG, Circuit Judges.

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\* 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).

Appellants Chiquita Canyon, LLC; Chiquita Canyon, Inc.; and Waste Connections US, Inc. (“Chiquita”) appeal from a district court order “grant[ing] as modified” a motion for preliminary injunction sought by the People of the State of California and the County of Los Angeles. We must first determine whether the district court’s order was an “[i]nterlocutory order[] . . . granting . . . [an] injunction[],” which vests this court with appellate jurisdiction. *See* 28 U.S.C. § 1292(a)(1). Because the order does not meet the requirements of § 1292(a)(1), we dismiss for lack of appellate jurisdiction.

The dispute stems from claims related to odors emanating from a landfill owned and operated by Chiquita and located in the County of Los Angeles. The County moved for a preliminary injunction requiring Chiquita to establish a fund of approximately \$20 million to cover the relocation and odor-mitigation expenses for individuals living near the landfill. The district court “granted as modified” the motion, holding the factors for issuing a preliminary injunction satisfied. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). But, turning to the scope and form of the requested injunction, the district court determined that the proposed preliminary injunction is insufficiently tailored. And the district court delayed any decision about whether the County is exempt from the general requirement that a movant for a preliminary injunction “give[] security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have

been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c). The district court then directed the parties to meet, confer, and file two joint statements regarding (1) “a more narrowly tailored injunction,” and (2) “whether the County is exempt from the posting of a bond.” Chiquita promptly appealed, arguing the district court order “granted” an “injunction,” which confers jurisdiction in this court. We disagree.

Despite the district court’s imprecise language, the effect of the underlying order is not a grant of an “injunction.” Ordinarily, identifying whether a district court’s order grants an injunction is a straightforward task. But when the contours and effects of a district court order are less clear, we look for three elements that define an order granting an injunction. The order must be “(1) directed to a party, (2) enforceable by contempt, and (3) designed to accord or protect some or all of the substantive relief sought by the complaint in more than temporary fashion.” *In re Lorillard Tobacco Co.*, 370 F.3d 982, 986 (9th Cir. 2004) (simplified); *see also Gon v. First State Ins. Co.*, 871 F.2d 863, 865 (9th Cir. 1989).

The district court order here does not meet the requirements of an “injunction.” First, it does not “accord or protect some or all of the substantive relief sought.” *In re Lorillard Tobacco Co.*, 370 F.3d at 986. The County requested a preliminary injunction requiring Chiquita to “establish a fund of at least \$20 million to subsidize the temporary relocation of residents” near the landfill with the fund “also [to] be used for remediating existing properties to mitigate the odors and health

effects of the landfill.” Instead of awarding the County’s requested relief, the district court order only directs the parties to “meet and confer” to produce joint statements proposing “a more narrowly tailored injunction” and clarifying whether “the County is exempt from the posting of a bond.” And “an order requiring submission of a remedial plan is generally not an injunction that is reviewable interlocutorily under Section 1292(a)(1).” *Armstrong v. Wilson*, 124 F.3d 1019, 1021–22 (9th Cir. 1997). While the district court determined that the “nature, duration, and geographical breadth of the odor” justified the establishment of “a fund to enable and facilitate the temporary relocation or home hardening of the residents” affected, it also determined the “County ha[d] not demonstrated that the requested injunctive relief is an appropriate remedy for the alleged harm.” The order, then, does not provide “some or all of the substantive relief sought by the complaint in more than [temporary] fashion.” *Id.* at 986. Second, the only judicial instruction enforceable by contempt is to meet and confer to produce joint statements on the identified matters. Finally, as the parties agree, the district court order fails to meet the requirements of a Rule 65 injunction. *See* Fed. R. Civ. P. 65(d)(1)(B)–(C) (requiring injunction’s terms be stated “specifically” and “describe[d] in reasonable detail”); Fed. R. Civ. P. 65(c) (requiring “security” to cover “costs and damages sustained by any party found to have been wrongfully enjoined”). The district court’s order therefore did not “grant[] . . . [an] injunction[]” under § 1292(a)(1).

Chiquita expresses concern that delaying appellate review of the district court's order will invite the County to later argue that Chiquita forfeited its challenge to the merits of the order. It is true that a party that has "foregone a right to appeal an injunction" does not "regain it simply because a separable modification . . . has occurred." *Gon*, 871 F.2d at 866. But because there was no appealable injunction, there is no danger of forfeiture. If the district court issues a subsequent order granting a preliminary injunction, that order will be a separate, appealable order, not a modification of the court's original order. And even if a subsequent order could be construed as a modification of the original order, the subsequent order's analysis would be "inextricably intertwined with the merits of the underlying order." *Id.* at 867 (simplified). Where "a modification [is] so fundamental to the original injunction, or [] otherwise present[s] issues so inextricable from the validity of the original injunction, [appellate] review must include the whole package." *Id.* at 866-67.

**DISMISSED.<sup>1</sup>**

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<sup>1</sup> The motions for leave to file amicus briefs from the United States Chamber of Commerce (Dkt. 18) and the National Waste & Recycling Association (Dkt. 19) are granted. Chiquita's motion for judicial notice (Dkt. 15) is also granted.

## UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

### Information Regarding Judgment and Post-Judgment Proceedings

#### Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

#### Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate electronic filing system or, if you are a pro se litigant or an attorney with an exemption from the electronic filing requirement, file one original motion on paper.

#### Petition for Panel Rehearing and Petition for Rehearing En Banc (Fed. R. App. P. 40; 9th Cir. R. 40-1 to 40-4)

#### (1) Purpose

##### A. Panel Rehearing:

- A party should seek panel rehearing only if one or more of the following grounds exist:
  - A material point of fact or law was overlooked in the decision;
  - A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
  - An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

##### B. Rehearing En Banc

- A party should seek en banc rehearing only if one or more of the following grounds exist:
  - Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
  - The proceeding involves a question of exceptional importance; or

- The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

## **(2) Deadlines for Filing:**

- A petition for rehearing or rehearing en banc must be filed within 14 days after entry of judgment. Fed. R. App. P. 40(d).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(d). The deadlines for seeking reconsideration of a non-dispositive order are set forth in 9th Cir. R. 27-10(a)(2).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-4.

## **(3) Statement of Counsel**

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

## **(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))**

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms*.
- Attorneys must file the petition electronically via the appellate electronic filing system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

### **Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)**

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms*.

### **Attorneys Fees**

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms* or by telephoning (415) 355-8000.

### **Petition for a Writ of Certiorari**

- The petition must be filed with the Supreme Court, not this Court. Please refer to the Rules of the United States Supreme Court at [www.supremecourt.gov](http://www.supremecourt.gov).

### **Counsel Listing in Published Opinions**

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter **in writing within 10 days** to:
  - Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista, [maria.b.evangelista@tr.com](mailto:maria.b.evangelista@tr.com));
  - **and** electronically file a copy of the letter via the appellate electronic filing system by using the Correspondence filing category, or if you are an attorney exempted from electronic filing, mail the Court one copy of the letter.

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 10. Bill of Costs**

*Instructions for this form: <http://www.ca9.uscourts.gov/forms/form10instructions.pdf>*

**9th Cir. Case Number(s)**

**Case Name**

Name of party/parties requesting costs to be taxed:

I swear under penalty of perjury that the copies for which costs are requested were actually and necessarily produced, and that the requested costs were actually expended.

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