

No. 20-1570

In the Supreme Court of the United States

HRB TAX GROUP, INC.; HRB DIGITAL LLC,

Petitioners,

v.

DEREK SNARR,

Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

SUPPLEMENTAL BRIEF FOR PETITIONERS

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Pursuant to Rule 15.8, petitioners respectfully submit this supplemental brief to address additional developments since the filing of petitioners' reply brief.¹

This case involves an interlocutory appeal under Section 16(a) of the Federal Arbitration Act, 9 U.S.C. § 16(a), from the denial of petitioners' motion to compel arbitration. See Pet. 10. Litigation continued in the district court during the pendency of the proceedings before both the Ninth Circuit and this Court.

On August 24, 2021, the district court dismissed the case in its entirety with prejudice and entered final judgment. Dist. Ct. Dkt. Nos. 169, 170.

Petitioners acknowledge that, ordinarily, the district court's final judgment in their favor would preclude the need for this Court's review of the question presented.

On August 27, 2021, however, respondent Snarr appealed the district court's judgment to the Ninth Circuit. See *Snarr v. HRB Tax Grp., Inc.*, No. 21-16414 (9th Cir. docketed Aug. 27, 2021). Petitioners intend to oppose respondent's arguments on appeal. But if respondent's appeal did prove successful, then the federal preemption question presented in the petition would return as a live issue—and one of critical importance affecting millions of consumer arbitration agreements in California that require individualized arbitration. See Am. Bankers Br. 2, 5.

Accordingly, petitioners respectfully request that the Court hold the petition in abeyance and defer its resolution pending the outcome of respondent's appeal

¹ The Petition's Rule 29.6 Statement remains accurate.

in the Ninth Circuit. Petitioners will promptly notify the Court once that appeal is decided.²

Should the Court in the interim grant review in another case presenting the same or similar question, then the Court may wish to consider holding the petition and resolving it as appropriate once that case is decided.³

² Petitioners are requesting a hold to ensure that the Court could immediately review the question presented relating to enforcement of the arbitration agreement if the Ninth Circuit were to rule in respondent's favor. See generally Stern & Gressman, SUPREME COURT PRACTICE § 2.3 (11th ed. 2019).

³ For example, one such petition is currently before the Court in *Fast Auto Loans, Inc. v. Maldonado*, No. 21-31 (docketed July 9, 2021). The Court has called for a response, which is currently due on September 24, 2021.

CONCLUSION

The petition for a writ of certiorari should be held in abeyance pending the outcome of the Ninth Circuit appeal in *Snarr v. HRB Tax Grp., Inc.*, No. 21-16414 (9th Cir.).

Respectfully submitted.

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