

APR 24 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FELIX C. RODRIGUEZ; et al.,

Plaintiffs - Appellants,

v.

RALPHS GROCERY COMPANY,

Defendant - Appellee.

No. 07-56822

D.C. No. CV-07-02311-R

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Submitted April 13, 2009\*\*

Before: LEAVY, GOULD, and BEA, Circuit Judges.

Felix C. Rodriguez and Kenneth Ntim appeal from the district court's judgment dismissing their federal and state law disability discrimination claims.

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo. *Get*

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

*Outdoors II, LLC v. City of San Diego*, 506 F.3d 886, 890 (9th Cir. 2007). We affirm in part, vacate in part, and remand.

Appellants do not challenge the district court's bases for dismissing their claims, but only the dismissal of their state law claims with prejudice.

We vacate the judgment to the extent it dismisses the state law claims with prejudice, and remand for the sole purpose of dismissing those claims without prejudice. *See Herman Family Revocable Trust v. Teddy Bear*, 254 F.3d 802, 805-07 (9th Cir. 2001) (explaining that if the federal claim is dismissed for lack of subject matter jurisdiction, a district court has no discretion to retain the supplemental claims for adjudication, and must dismiss the state law claims without prejudice).

The parties shall bear their own costs on appeal.

**AFFIRMED in part, VACATED in part, and REMANDED.**