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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RYAN PRESLEY,

Plaintiff - Appellant,

v.

FREIGHTLINER, LLC,

Defendant - Appellee.

No. 08-35886

D.C. No. 3:07-cv-00276-KI

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Garr M. King, District Judge, Presiding

Argued and Submitted November 5, 2009  
Portland, Oregon

Before: KOZINSKI, Chief Judge, FISHER and PAEZ, Circuit Judges.

We review de novo a grant of summary judgment. *McGinest v. GTE Serv. Corp.*, 360 F.3d 1103, 1112 (9th Cir. 2004). Here, we conclude that there were genuine issues of material fact as to whether Freightliner discriminated against Presley on the basis of his race and whether Freightliner retaliated against Presley

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

when he complained of racial discrimination. We thus reverse the district court's grant of summary judgment.

**REVERSED and REMANDED.**