

DEC 02 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANK MARVIN PHILLIPS,

Plaintiff - Appellant,

v.

LYNN HUST,

Defendant - Appellee.

No. 07-36082

D.C. No. CV-01-01252-HA

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Ancer L. Haggerty, District Judge, Presiding

Before: D.W. NELSON, O'SCANNLAIN, and THOMAS, Circuit Judges.\*\*

In light of our concurrently filed opinion in *Phillips v. Hust*, No. 04-36021,  
this appeal is DISMISSED as moot.

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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).