

FILED

JUL 10 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SCOTT SCHUTZA,

Plaintiff-Appellant,

v.

FRN OF SAN DIEGO, LLC, a Delaware
Limited Liability Company,

Defendant-Appellee.

No. 15-55704

D.C. No.

3:14-cv-02628-JM-RBB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Submitted February 6, 2017**
Pasadena, California

Before: GRABER, BYBEE, and CHRISTEN, Circuit Judges.

We vacate the district court's dismissal of this action, and we remand for reconsideration in light of Karczewski v. DCH Mission Valley, LLC, No. 15-55633.

VACATED and REMANDED. Costs on appeal awarded to Plaintiff.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes that this case is suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

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Schutz v. FRN of San Diego, LLC, No. 15-55704

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BYBEE, Circuit Judge, acquiescing *dubitante*:

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I acquiesce *dubitante* for the reasons articulated in my separate opinion in
Karczewski v. DCH Mission Valley, LLC, No. 15-55633.