

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 10 2017

JOHN KARCZEWSKI,

Plaintiff-Appellant,

v.

CONANT AUTO RETAIL, SAN DIEGO,
INC., a California Corporation,

Defendant-Appellee.

No. 15-55893

D.C. No.

3:14-cv-02615-JAH-JLB

MEMORANDUM*

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

Appeal from the United States District Court
for the Southern District of California
John A. Houston, 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).

FILED

Karczewski v. Conant Auto Retail, No. 15-55893

JUL 10 2017

BYBEE, Circuit Judge, acquiescing *dubitante*:

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

I acquiesce *dubitante* for the reasons articulated in my separate opinion in

Karczewski v. DCH Mission Valley, LLC, No. 15-55633.