

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NOT FOR PUBLICATION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

MICHAEL TATE,

Plaintiff-Appellant,

v.

FAMILY AUTO GROUP, INC., a  
California corporation,

Defendant-Appellee.

No. 15-56087

D.C. No.

2:14-cv-08738-SJO-MRW

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
S. James Otero, 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.

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\* 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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*Tate v. Family Auto Grp., Inc.*, No. 15-56087

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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.