

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 18 2022

FOR THE NINTH CIRCUIT

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

GILBERT GARCIA, by and through his
successor in interest, Paul Garcia; PAUL
GARCIA, individually; RONALD GARCIA,
individually; GARY GARCIA, individually,

Plaintiffs-Appellants,

v.

WELLTOWER OPCO GROUP LLC, DBA
Sunrise Villa Bradford; SUNRISE SENIOR
LIVING MANAGEMENT, INC.; RUZICA
CALABRESE, an individual,

Defendants-Appellees.

No. 21-55224

D.C. No.

8:20-cv-02250-JVS-KES

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Submitted November 15, 2022**
San Francisco, California

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

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

Before: RAWLINSON and HURWITZ, Circuit Judges, and CARDONE,^{***} District Judge.

1. The district court held that it had jurisdiction under 28 U.S.C. § 1331, pursuant to the complete preemption doctrine. We vacate the district court's decision and remand for reconsideration in light of *Saldana v. Glenhaven Healthcare LLC*, 27 F.4th 679 (9th Cir. 2022).

2. On remand, the district court should address in the first instance whether there is jurisdiction pursuant to 28 U.S.C. § 1332(a)(1).

VACATED AND REMANDED.

^{***} The Honorable Kathleen Cardone, United States District Judge for the Western District of Texas, sitting by designation.