



CALIFORNIA AUTO DEALER .

A Gray • Duffy LLP Newsletter

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Are Dealers Required to Provide Hand Controls to Disabled Customers for Test Drives?

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A recent California Ninth Circuit Court of Appeals case, *Karczewski v DCH Mission Valley LLC* ruled that at least some auto dealers may need to accommodate disabled drivers who wish to use hand controls for test drives. This would require the dealer to install the hand controls for the customer's use on any vehicle the customer chooses to test drive. It does not require that the dealer immediately do so, but that the dealer reasonably provide the access to disabled drivers who cannot use foot controls. The big question is, how does a dealer determine what is reasonable?

The Court made clear that the determination has to be made on a case by case basis. The key indicator that the Court gave as to what might be required was an example of when it might be reasonable:

"For example, the installation of vehicle hand controls is likely reasonable at a large dealership that regularly installs hand controls, has spare universal hand controls on hand, and employs many mechanics with expertise in installing hand controls, when advance notice is given by a customer with clear expertise in using hand controls."

The Court did not define what would make a dealership "large." The case also did not define how a dealer would determine whether a customer has "clear expertise" in using hand controls. Nor did it address the many other issues, such as whether

one kind of hand controls can be installed on any car in the same manner. The case did, however, discuss the use of hand controls by rental car companies on a regular basis.

The conclusion I draw from this is that if a dealership has an onsite rental car company that provides hand controls to customers, or sells regularly to rental car companies and/or assists rental car companies in installing hand controls on its car, or otherwise has mechanics who have expertise in installing hand controls on vehicles, the dealership could be reasonably required to install hand controls for test drives if other factors do not make doing so unreasonably burdensome.

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