FOR PUBLICATION

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

STEVEN FISHER,

Plaintiff-Appellee,

and

SANDRA FISHER,

Plaintiff,

v.

CITY OF SAN JOSE,

Defendant-Appellant,

and

CITY OF SAN JOSE POLICE

DEPARTMENT; OFFICER BOLER;

OFFICER BARNETT; OFFICER CORREA;

Officer Esquivel; Officer Honda;

OFFICER KINSWORTHY; OFFICER

O'BRIEN; OFFICER RYAN; OFFICER

NGUYEN,

Defendants.

No. 04-16095

D.C. No. CV-01-21192-PVT

Northern District of California,

San Jose

ORDER

Filed March 14, 2008

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

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