

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

RUSSELL ALLEN NORDYKE; ANN  
SALLIE NORDYKE, dba TS Trade  
Shows; JESS B. GUY; DUANE DARR;  
WILLIAM J. JONES; DARYL N.  
DAVID; TASIANA WESTYSCHYN; JEAN  
LEE; TODD BALTES; DENNIS BLAIR,  
R.L. ADAMS; ROGER BAKER; MIKE  
FOURNIER; VIRGIL McVICKER,  
*Plaintiffs-Appellants,*

v.

MARY V. KING; GAIL STEELE;  
WILMA CHAN; KEITH CARSON;  
SCOTT HAGGERTY; COUNTY OF  
ALAMEDA; COUNTY OF ALAMEDA  
BOARD OF SUPERVISORS,  
*Defendants-Appellees.*

No. 07-15763  
D.C. No.  
CV-99-04389-MJJ  
ORDER

Filed November 28, 2011

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**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.

Judge Rawlinson did not participate in the deliberations or vote in this case.