

FILED

MAR 25 2013

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

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**ESTATE OF HENRY BARABIN;
GERALDINE BARABIN, personal
representative,**

Plaintiffs - Appellees,

v.

ASTENJOHNSON, INC.,

Defendant - Appellant.

No. 10-36142

D.C. No. 2:07-cv-01454-RSL

ORDER

**ESTATE OF HENRY BARABIN;
GERALDINE BARABIN,**

Plaintiffs - Appellees,

v.

ASTENJOHNSON, INC.,

Defendant,

and

SCAPA DRYER FABRICS, INC.,

Defendant - Appellant.

No. 11-35020

D.C. No. 2:07-cv-01454-RSL

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 Federal Rule of Appellate Procedure 35(a) and 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 Christen did not participate in the deliberations or vote in this case.