

United States Court of Appeals For the First Circuit

Nos. 07-2615, 07-2616

MASSACHUSETTS EYE AND EAR INFIRMARY,
Plaintiff/Counterclaim Defendant-Appellee/Cross-Appellant,

v.

QLT PHOTOTHERAPEUTICS, INC.,

Defendant.

QLT, INC.,

Counterclaim Plaintiff, Appellant/Cross-Appellee,

v.

MASSACHUSETTS EYE AND EAR INFIRMARY;
EVANGELOS S. GRAGOUDAS, M.D.; JOAN W. MILLER, M.D.,
Counterclaim Defendants, Appellees/Cross-Appellants.

Before
Lynch, Chief Judge,
Torruella, Boudin, Lipez and Howard, Circuit Judges.*

ORDER OF COURT
Entered: February 23, 2009

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court and a

*Judges Torruella and Boudin are recused and did not vote on this matter.

majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and the petition for rehearing en banc be denied.

By the Court:

/s/ Richard Cushing Donovan, Clerk

cc: Hon. William G. Young, Ms. Sarah Thornton, Clerk, United States District Court for the District of Massachusetts, Ms. Davison, Mr. Ware, Mr. Cushing, Mr. Donovan, Ms. Fiacco, Mr. Ridings, Ms. Sereny, Mr. Chun, Mr. Helmer, Mr. Maffei, Mr. Herman, Mr. Richlin, Mr. McKelvie, Mr. Baker, Mr. Harnett, Ms. DeFranco, Ms. Metzger-Hare, Mr. Flattmann, Mr. Bone, Mr. Buford, Mr. Haley, Ms. Cooleybeck, Mr. Bromberg, Mr. Biddinger, Ms. Mangasarian, Mr. Schwartz, Mr. Taranto, Mr. Ainsworth & Mr. Panner.