

1 UNITED STATES COURT OF APPEALS
2
3 FOR THE SECOND CIRCUIT
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6 At a stated term of the United States Court of Appeals
7 for the Second Circuit, held at the Thurgood Marshall United
8 States Courthouse, 40 Foley Square, in the City of New York, on
9 the 17th day of December, two thousand fourteen,
10

11 Present:

12 ROBERT A. KATZMANN,
13 Chief Judge,
14 DENNIS JACOBS,
15 GUIDO CALABRESI,*
16 JOSÉ A CABRANES,
17 ROSEMARY S. POOLER,
18 REENA RAGGI,
19 RICHARD C. WESLEY,
20 PETER W. HALL
21 DEBRA ANN LIVINGSTON,
22 GERARD E. LYNCH,
23 DENNY CHIN,
24 RAYMOND J. LOHIER, JR.,
25 SUSAN L. CARNEY,
26 CHRISTOPHER F. DRONEY,
27 Circuit Judges.
28

29 -----x
30 Karina Garcia, as Class Representative
31 on behalf of herself and others similarly
32 situated, Yari Osorio, as Class Representative
33 on behalf of herself and others similarly
34 situated, Benjamin Becker, as Class
35 Representative on behalf of himself and
36 others similarly situated, Cassandra Regan, as
37 Class Representative on behalf of herself and
38 others similarly situated, Yareidis Perez,
39 as Class Representative on behalf of herself
40 and others similarly situated, Tyler Sova,
41 as Class Representative on behalf of himself
42 and others similarly situated, Stephanie Jean
43 Umoh, as Class Representative on behalf of
44 herself and others similarly situated, Michael
45 Crickmore, as Class Representative on behalf

46 of himself and others similarly situated,
47 Brooke Feinstein, as Class Representative on
48 behalf of herself and others similarly situated,
49

50 Plaintiffs - Appellees,

51
52 Marcel Cartier, as Class Representative
53 on behalf of himself and others similarly situated,
54

55 Plaintiff,

56
57 v.

12-2634

58
59 Jane and John Does 1-40, Individually and in
60 their official capacities,
61

62 Defendants - Appellants,

63 Raymond W. Kelly, Individually and in his
64 official capacity, City of New York, Michael R.
65 Bloomberg, in his official capacity and
66 Individually,
67

68 Defendants.

69 -----x

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71 For Plaintiffs- Appellees: Mara Verheyden-Hillard (Andrea Hope
72 Costello and Carl Messineo, on the
73 brief), Partnership for Civil Justice
74 Fund, Washington, DC

75 For Defendants- Appellants: Ronald E. Sternberg, Assistant
76 Corporation Counsel (Leonard Koerner
77 and Arthur G. Larkin, Assistant
78 Corporation Counsel, on the brief), for
79 Zachary W. Carter, Corporation Counsel
80 of the City of New York, New York, NY
81

82 **ORDER**

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84 Following disposition of this appeal on August 21, 2014, an
85 active judge of the Court requested a poll on whether to rehear
86 the case *in banc*. A poll having been conducted and a majority of
87 the active judges of the Court having voted in favor of
88 rehearing this appeal *in banc*,
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90 IT IS HEREBY ORDERED that this appeal be heard *in banc*. See
91 Fed. R. App. P. 35(a). The *in banc* panel will consist of the
92 active judges of the Court and (subject to his election) the

93 senior circuit judge who served on the three-judge panel. See 28
94 U.S.C. § 46(c).

95
96 The panel having recommended withdrawal of its opinions in
97 this case, such withdrawal shall be noted on the docket by the
98 Clerk of Court.

99
100 A briefing schedule will follow in due course.

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103 FOR THE COURT:
104 Catherine O'Hagan Wolfe
105 Clerk of Court

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109
110 * Senior Circuit Judge Guido Calabresi was a member of the
111 initial three-judge panel that heard this appeal and is
112 therefore eligible to participate in *in banc* rehearing.
113 See 28 U.S.C. § 46 (c)(1).