

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

JOHN DOE, a minor, by his mother  
and next friend, Jane Doe nfr Jane  
Doe,

*Plaintiff-Appellant,*

and

JOSEPHINE HELELANI PAUAHI  
RABAGO,

*Intervenor,*

v.

KAMEHAMEHA SCHOOLS/BERNICE  
PAUAHI BISHOP ESTATE; CONSTANCE  
LAU, in her capacity as Trustee of  
the Kamehameha Schools/Bernice  
Pauahi Bishop Estate; NAINOA  
THOMPSON, in his capacity as  
Trustee of the Kamehameha  
Schools/Bernice Pauahi Bishop  
Estate; DIANE J. PLOTTS, in her  
capacity as Trustee of the  
Kamehameha Schools/Bernice  
Pauahi Bishop Estate; ROBERT  
K.U. KIHUNE, in his capacity as  
Trustee of the Kamehameha  
Schools/Bernice Pauahi Bishop  
Estate; J. DOUGLAS ING, in his  
capacity as Trustee of the  
Kamehameha Schools/Bernice  
Pauahi Bishop Estate,

*Defendants-Appellees.*

No. 04-15044

D.C. No.  
CV-03-00316-ACK  
ORDER

Filed February 22, 2006

Before: Mary M. Schroeder, Chief Judge.

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**ORDER**

Upon the vote of a majority of nonrecused regular active judges of this court,<sup>1</sup> it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to this court or any district court of the Ninth Circuit, except to the extent adopted by the en banc court.

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<sup>1</sup>Judge Clifton is recused.



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