

FOR PUBLICATION

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

STEVEN FISHER,  
*Plaintiff-Appellee,*  
and

SANDRA FISHER,  
*Plaintiff,*  
v.

CITY OF SAN JOSE,  
*Defendant-Appellant,*  
and

CITY OF SAN JOSE POLICE  
DEPARTMENT; OFFICER BOLER;  
OFFICER BARNETT; OFFICER CORREA;  
OFFICER ESQUIVEL; OFFICER HONDA;  
OFFICER KINSWORTHY; OFFICER  
O'BRIEN; OFFICER RYAN; OFFICER  
NGUYEN,  
*Defendants.*

No. 04-16095  
D.C. No.  
CV-01-21192-PVT  
Northern District  
of California,  
San Jose  
ORDER

Filed March 14, 2008

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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.

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