

**FILED**

DEC 21 2007

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

**FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT R. FOULON,

Plaintiff - Appellant,

v.

KLAYMAN & TOSKES PA, a foreign  
corporation,

Defendant - Appellee.

No. 05-35383

D.C. No. CV-04-02555-JCC  
Western District of Washington,  
Seattle

ORDER

KOZINSKI, Chief Judge.

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be heard en banc pursuant to Circuit Rule 35-3.