

FILED

DEC 30 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CLAUDE CASSIRER,

Plaintiff - Appellee,

v.

KINGDOM OF SPAIN, a foreign state,

Defendant,

and

**THYSSEN-BORNEMISZA
COLLECTION FOUNDATION, an
agency or instrumentality of the
Kingdom of Spain,**

Defendant - Appellant.

No. 06-56325

D.C. No. CV-05-03459-GAF

ORDER

CLAUDE CASSIRER,

Plaintiff - Appellee,

v.

KINGDOM OF SPAIN, a foreign state,

Defendant - Appellant,

and

**THYSSEN-BORNEMISZA
COLLECTION FOUNDATION, an
agency or instrumentality of the
Kingdom of Spain,**

Defendant.

No. 06-56406

D.C. No. CV-05-03459-GAF

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.