

FILED

JUL 29 2009

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

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RUSSELL ALLEN NORDYKE; ANN SALLIE NORDYKE, dba TS Trade Shows; JESS B. GUY; DUANE DARR; WILLIAM J. JONES; DARYL N. DAVID; TASIANA WESTYSCHYN; JEAN LEE; TODD BALTES; DENNIS BLAIR, R.L. ADAMS; ROGER BAKER; MIKE FOURNIER; VIRGIL MCVICKER,

Plaintiffs - Appellants,

v.

MARY V. KING; GAIL STEELE; WILMA CHAN; KEITH CARSON; SCOTT HAGGERTY; COUNTY OF ALAMEDA; COUNTY OF ALAMEDA BOARD OF SUPERVISORS,

Defendants - Appellees.

No. 07-15763

D.C. No. CV-99-04389-MJJ

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.

Judge Rawlinson did not participate in the deliberations or vote in this case.