

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

ALEXIS HOLYWEEK SAREI; PAUL E.  
NERAU; THOMAS TAMAUSI; PHILLIP  
MIRIORI; GREGORY KOPA;  
METHODIUS NESIKO; ALOYSIUS  
MOSES; RAPHEAL NINIKU; GABRIEL  
TAREASI; LINUS TAKINU; LEO WUIS;  
MICHAEL AKOPE; BENEDICT PISI;  
THOMAS KOBUKO; JOHN TAMUASI;  
NORMAN MOUVO; JOHN OSANI; BEN  
KORUS; NAMIRA KAWONA; JOANNE  
BOSCO; JOHN PIGOLO; MAGDALENE  
PIGOLO, individually and on behalf  
of themselves and all others  
similarly situated,

*Plaintiffs-Appellants,*

v.

RIO TINTO, PLC; RIO TINTO  
LIMITED,

*Defendants-Appellees.*

No. 02-56256

D.C. No.  
CV-00-11695-  
MMM

ALEXIS HOLYWEEK SAREI; PAUL E. NERAU; THOMAS TAMAUSI; PHILLIP MIRIORI; GREGORY KOPA; METHODIUS NESIKO; ALOYSIUS MOSES; RAPHEAL NINIKU; GABRIEL TAREASI; LINUS TAKINU; LEO WUIS; MICHAEL AKOPE; BENEDICT PISI; THOMAS KOBUKO; JOHN TAMUASI; NORMAN MOUVO; JOHN OSANI; BEN KORUS; NAMIRA KAWONA; JOANNE BOSCO; JOHN PIGOLO; MAGDALENE PIGOLO, individually and on behalf of themselves and all others similarly situated,

*Plaintiffs-Appellees,*

v.

RIO TINTO, PLC; RIO TINTO LIMITED,

*Defendants-Appellants.*

No. 02-56390

D.C. No.  
CV-00-11695-

MMM

ORDER

Filed August 20, 2007

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,\* 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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\*Judges Hawkins and Wardlaw are recused.



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