

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

SPRINT TELEPHONY PCS, L.P., a  
Delaware limited partnership,  
*Plaintiff-Appellant-  
Cross-Appellee,*

and

PACIFIC BELL WIRELESS LLC, a  
Nevada limited liability company,  
dba Cingular Wireless,  
*Plaintiff,*

v.

COUNTY OF SAN DIEGO; GREG COX,  
in his capacity as supervisor of the  
County of San Diego; DIANNE  
JACOB, in her capacity as  
supervisor of the County of San  
Diego; PAM SLATER, in her  
capacity as supervisor of the  
County of San Diego; RON  
ROBERTS, in his capacity as  
supervisor of the County of San  
Diego; BILL HORN, in his capacity  
as supervisor of the County of San  
Diego,

*Defendants-Appellees-  
Cross-Appellants.*

Nos. 05-56076  
05-56435

D.C. No.  
CV-03-1398-BTM

ORDER

Filed May 14, 2008

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges,<sup>1</sup> 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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<sup>1</sup>Judges McKeown and M. Smith are recused.



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