

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,¹ 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.

¹Judges McKeown and M. Smith are recused.

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