

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

AUGUSTA MILLENDER; BRENDA  
MILLENDER; WILLIAM JOHNSON,  
*Plaintiffs-Appellees,*

v.

COUNTY OF LOS ANGELES; ROBERT  
J. LAWRENCE; CURT  
MESSERSCHMIDT,  
*Defendants-Appellants,*

and

LOS ANGELES COUNTY SHERIFF'S  
DEPARTMENT; SHERIFF LEROY BACA;  
SCOTT WALKER; RICK RECTOR;  
DONALD NICHIPORUK; RICHARD  
SCHLEGEL; DEPUTY BRICE STELLA;  
JACK DEMELLO; DAVID O'SULLIVAN;  
JAMES RITENOUR; IAN STADE,  
*Defendants.*

No. 07-55518  
D.C. No.  
CV-05-02298-DDP  
ORDER

Filed October 2, 2009

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**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 Pregerson did not participate in the deliberations or vote in this case.

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