

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

WINDY PAYNE, individually and as  
guardian on behalf of; D.P., a  
minor child,

*Plaintiffs-Appellants,*

v.

PENINSULA SCHOOL DISTRICT, a  
municipal corporation; ARTONDALE  
ELEMENTARY SCHOOL, a municipal  
corporation; JODI COY, in her  
individual and official capacity;  
JAMES COOLICAN, in his individual  
and official capacity; JANE DOES 1-  
10; JOHN DOES 1-10,

*Defendants-Appellees.*

No. 07-35115  
D.C. No.  
CV-05-05780-RBL  
ORDER

Filed September 7, 2010

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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.