

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VETERANS FOR COMMON SENSE, a
District of Columbia nonprofit
organization; VETERANS UNITED FOR
TRUTH, INC., a California nonprofit
organization, representing their
members and a class of all
veterans similarly situated,

Plaintiffs-Appellants,

v.

ERIC K. SHINSEKI, Secretary of
Veterans Affairs; UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS;
JAMES P. TERRY, Chairman, Board
of Veterans' Appeals; MICHAEL
WALCOFF, Acting Under Secretary,
Veterans Benefits Administration;
BRADLEY G. MAYES, Director,
Compensation and Pension
Service; ROBERT A. PETZEL, M.D.,
Under Secretary, Veterans Health
Administration; PRITZ K. NAVARA,
Veterans Service Center Manager,
Oakland Regional Office,
Department of Veterans Affairs;
UNITED STATES OF AMERICA,

Defendants-Appellees.

No. 08-16728
D.C. No.
3:07-cv-03758-SC
ORDER

Filed November 16, 2011

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 W. Fletcher did not participate in the deliberations or vote in this case.