

**FOR PUBLICATION**

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

ARMANDO NIEVES MARTINEZ;  
AMELIA PESQUEIRA ORTEGA, on  
their behalf and on behalf of R.N.P.;  
ARMANDO NIEVES PESQUEIRA,  
*Plaintiffs-Appellants,*

v.

UNITED STATES OF AMERICA,  
*Defendant-Appellee.*

No. 19-16953

D.C. No.  
4:13-cv-00955-  
CKJ-LAB

ORDER

Filed December 3, 2021

Before: William A. Fletcher and Sandra S. Ikuta, Circuit  
Judges, and Karen E. Schreier,\* District Judge.

Order

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\* The Honorable Karen E. Schreier, United States District Judge for the District of South Dakota, sitting by designation.

**ORDER**

Judge Ikuta and Judge Schreier have voted to deny appellants' petition for panel rehearing. Judge Fletcher voted to grant the petition for rehearing. Judge Ikuta voted to deny the petition for rehearing en banc and Judge Schreier so recommended. Judge Fletcher voted to grant the petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of votes of the nonrecused active judges in favor of en banc consideration. Fed. R. App. P. 35. The petition for rehearing and the petition for rehearing en banc (Dkt. 47) are **DENIED**.