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**John DOE, a minor, by his mother and
next friend, Jane DOE nfr Jane
Doe, Plaintiff–Appellant,
and
Josephine Helelani Pauahi
Rabago, Intervenor,**

v.

**KAMEHAMEHA SCHOOLS/BERNICE
PAUAHI BISHOP ESTATE; Con-
stance Lau, in her capacity as Trustee
of the Kamehameha Schools/Bernice
Pauahi Bishop Estate; Nainoa
Thompson, in his capacity as Trustee
of the Kamehameha Schools/Bernice
Pauahi Bishop Estate; Diane J.
Plotts, in her capacity as Trustee of
the Kamehameha Schools/Bernice
Pauahi Bishop Estate; Robert K.U.
Kihune, in his capacity as Trustee of
the Kamehameha Schools/Bernice
Pauahi Bishop Estate; J. Douglas
Ing, in his capacity as Trustee of the
Kamehameha Schools/Bernice Pauahi
Bishop Estate, Defendants–Appellees.**

No. 04–15044.

United States Court of Appeals,
Ninth Circuit.

Feb. 22, 2006.

John W. Goemans, Esq., Kamuela, HI,
Eric Grant, Esq., Attorney at Law, Sacra-
mento, CA, for Plaintiff–Appellant.

Emmett B. Lewis, Miller & Chevalier,
Chartered Metropolitan Square, Washing-
ton, DC, David Schulmeister, Esq., Cades,
Schutte, Fleming and Wright, Honolulu,
HI, Kathleen M. Sullivan, Stanford Law
School, Stanford, CA, Jay L. Carlson,
Esq., Crystal K. Rose, Esq., Bays, Deaver,
Hiatt, Lung & Rose, Honolulu, HI, for
Defendants–Appellees.

Before MARY M. SCHROEDER, Chief
Judge.

1. Judge Clifton is recused.

ORDER

Upon the vote of a majority of nonre-
cused regular active judges of this court,¹
it is ordered that this case be reheard by
the en banc court pursuant to Circuit Rule
35–3. The three-judge panel opinion shall
not be cited as precedent by or to this
court or any district court of the Ninth
Circuit, except to the extent adopted by
the en banc court.



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**The ATTORNEY GENERAL OF
GUAM, Plaintiff–Appellant,**

v.

**William R. THOMPSON, in his official
capacity as Executive Manager of
Guam Airport Authority, Defendant–
Appellee.**

**The Attorney General of Guam,
Plaintiff–Appellee,**

v.

**William R. Thompson, in his official
capacity as Executive Manager of
Guam Airport Authority, Defendant–
Appellant.**

Nos. 03–15823, 03–15999.

United States Court of Appeals,
Ninth Circuit.

March 2, 2006.

Background: Attorney General of Guam
brought action against executive manager
of Guam airport authority seeking declara-
tory judgment to prevent authority from
retaining its own legal counsel to conduct