

The judgment of the district court is **AFFIRMED.**



1

**Patrick O. OJO, Attorney, on behalf of
himself and all others similarly
situated, Plaintiff-Appellant,**

v.

**FARMERS GROUP, INC.; Fire Under-
writers Association; Fire Insurance
Exchange; Farmers Underwriters As-
sociation; Farmers Insurance Ex-
change, Defendants-Appellees.**

No. 06-55522.

United States Court of Appeals,
Ninth Circuit.

Oct. 26, 2009.

James A. Francis, Esquire, Francis & Mailman, Philadelphia, PA, Andrew S. Friedman, Bonnett Fairbourn Friedman & Balint PC, Phoenix, AZ, Barrett Stephen Litt, Esquire, Litt, Estuar, Harrison & Kitson, LLP, Los Angeles, CA, J. Andrew Meyer, Esquire, James Hoyer Newcomer & Smiljanich, Tampa, FL, John J. Stoia, Jr., Esquire, Coughlin Stoia Geller Rudman & Robbins, LLP, San Diego, CA, Sanford Svetcov, Coughlin Stoia Geller Rudman & Robbins, LLP, San Francisco, CA, for Plaintiff-Appellant.

Harriet S. Posner, Skadden, Arps, Slate, Meagher & Flom LLP, Los Angeles, CA, Andrew L. Sandler, Esquire, Skadden Arps Slate Meagher & Flom, LLP, Washington, DC, for Defendants-Appellees.

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonre-cused active judges, it is ordered that this case be reheard en banc pursuant to Cir-cuit Rule 35-3. The three-judge panel

opinion shall not be cited as precedent by or to any court of the Ninth Circuit.



2

**Binyam MOHAMED; Abou Elkassim
Britel; Ahmed Agiza; Mohamed Far-
ag Ahmad Bashmilah; Bisher Al-
Rawi, Plaintiffs-Appellants,**

v.

**JEPPESEN DATAPLAN, INC.,
Defendant-Appellee,**

**United States of America,
Intervenor-Appellee.**

No. 08-15693.

United States Court of Appeals,
Ninth Circuit.

Oct. 27, 2009.

Steven M. Watt, Benjamin Elihu Wiz-ner, ACLU-American Civil Liberties Un-ion Foundation, New York, NY, Julia Harumi Mass, ACLU-American Civil Liberties Union Foundation, San Francis-co, CA, for Plaintiffs-Appellants.

Douglas Neal Letter, Esquire, U.S. De-partment of Justice, Washington, DC, for Intervenor-Appellee.

Daniel Paul Collins, Henry Weissmann, Munger, Tolles & Olson LLP, Los Ange-les, CA, for Defendant-Appellee.

Barbara Moses, Esquire, David J. Stankiewicz, Esquire, Morvillo Abramowitz Grand Iason Anello & Bohrer, PC, New York, NY, Jonathan Hafetz, Esquire, Aziz Huq, Esquire, New York, NY, for Former United States Diplomats.

Jean–Paul Jassy, Gary L. Bostwick, Bostwick & Jassy LLP, Los Angeles, CA, for William G. Weaver, Robert Pallitto.

James M. Ringer, Esquire, New York, NY, for Commonwealth Lawyers Association, Justice.

William J. Aceves, Esquire, California Western School of Law, San Diego, CA, for Redress, International Commission of Jurists.

Andrew G. McBride, Esquire, Wiley Rein LLP, Washington, DC, for The Foundation for the Defense of Democracies.

Richard Abbott Samp, Chief Counsel, Washington Legal Foundation, Washington, DC, for Washington Legal Foundation, Allied Educational Foundation.

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonreversed 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.

Judges REINHARDT, McKEOWN, GOULD, BYBEE, MILAN D. SMITH, JR. and IKUTA did not participate in the deliberations or vote in this case.



STORMANS, INC., doing business as Ralph’s Thriftway; Rhonda Mesler; Margo Thelen, Plaintiffs–Appellees,

v.

Mary SELECKY, Secretary of the Washington State Department of Health; Laurie Jenkins, Assistant Secretary of Washington Health Systems Quality Assurance; George Roe; Susan Thiel Boyer; Dan Connolly; Gary

Harris; Vandana Slatter; Rebecca Hille; Rosemarie Duffy, Members of the Washington Board of Pharmacy; Ellis Casson; Deborah Sious Cano–Lee; Jerry Hebert; Shawn Murinko, Commissioners for the Washington Human Rights Commission; Mark Brenman, Executive Director of the Washington Human Rights Commission; Yvonne Lopez Morton acting Commissioner of the Human Rights Commission of the State of Washington, Defendants–Appellants,

and

Judith Billings; Rhiannon Andreini; Jeffrey Schouten; Molly Harmon; Catherine Rosman; Emily Schmidt; Tami Garrard, Defendant-intervenors.

Stormans, Inc., doing business as Ralph’s Thriftway; Rhonda Mesler; Margo Thelen, Plaintiffs–Appellees,

v.

Mary Selecky, Secretary of the Washington State Department of Health; Laurie Jenkins, Assistant Secretary of Washington Health Systems Quality Assurance; George Roe; Susan Thiel Boyer; Dan Connolly; Gary Harris; Vandana Slatter; Rebecca Hille; Rosemarie Duffy, Members of the Washington Board of Pharmacy; Ellis Casson; Deborah Sious Cano–Lee; Jerry Hebert; Shawn Murinko, Commissioners for the Washington Human Rights Commission; Mark Brenman, Executive Director of the Washington Human Rights Commission, Defendants,

and

Yvonne Lopez Morton, acting Commissioner of the Human Rights Commission of the State of Washington, Defendant–Appellant,