

395 F.3d 1168 (2005)

**PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation, Plaintiff-counter-defendant — Appellant,**

**v.**

**SEATTLE SCHOOL DISTRICT, NO. 1, a political subdivision of the State of Washington; Joseph Olchefske, in his official capacity as superintendent; Barbara Schaad-Lamphere, in her official capacity as President of the Board of Directors of Seattle Public Schools; Donald Neilson, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; Steven. Brown; Jan Kumasaka; Michael Preston; Nancy Waldman, in their official capacities as members of the board of Directors, Defendants-counter-claimants — Appellees.**

[No. 01-35450.](#)

**United States Court of Appeals, Ninth Circuit.**

February 1, 2005.

Daniel B. Ritter, Esq., and Harry James Franklyn Korrell, III, Esq., Davis, Wright & Tremaine, Seattle, WA, for Plaintiff-counter-defendant-Appellant.

Michael Madden, Esq., Bennett, Bigelow & Leedom, P.S., Mark S. Green, AAG, Seattle, WA, for Defendants-counter-claimants-Appellees.

## **ORDER**

SCHROEDER, Chief Judge.

Upon the vote of a majority of nonrecused regular active judges of this court<sup>[1]</sup>, 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.

<sup>[1]</sup> Judges McKeown and Gould are recused.