

192 F.3d 1308

United States Court of Appeals,

Ninth Circuit.

Daniel J. BERNSTEIN, Plaintiff-Appellee,

v.

UNITED STATES DEPARTMENT OF JUSTICE; United States Department of Commerce; Department of State; United States Department of Defense; United States Arms Control and Disarmament Agency; National Security Agency; United States Department of Energy; Central Intelligence Agency; Madeline E. Albright, United States Secretary of State; William M. Daley, United States Secretary of Commerce; William Cohen, United States Secretary of Defense; Kenneth A. Minihan, Director, United States National Security Agency; John B. Holum, Director, United States Arms Control and Disarmament Agency; William G. Robinson; Gary M. Oncale; Ambassador Michael Newlin; Charles Ray; Mark Koro; Greg Stark; Does 1-100, Defendants-Appellants.

No. 97-16686.

Sept. 30, 1999.

ORDER

[HUG](#), Chief Judge:

Upon the vote of a majority of nonrecused regular active judges of this court, it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3. The three-judge panel opinion, *Bernstein v. U.S. Dept. of Justice*, [176 F.3d 1132 \(9th Cir.1999\)](#), is withdrawn.