

**FILED**

**FOR PUBLICATION**

NOV 10 2011

**UNITED STATES COURT OF APPEALS**

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**FOR THE NINTH CIRCUIT**

**MICHAEL LACEY; JIM LARKIN;  
PHOENIX NEW TIMES, LLC,**

Plaintiffs - Appellants,

v.

**MARICOPA COUNTY, a public entity;  
JOSEPH ARPAIO, Sheriff, and AVA  
ARPAIO, husband and wife; DENNIS  
WILENCHIK and BECKY  
BARTNESS, husband and wife; JOHN  
DOES I-X; JANE DOES I-X; BLACK  
CORPORATIONS, I-V; and WHITE  
PARTNERSHIPS, I-V,**

Defendants - Appellees.

No. 09-15703

D.C. No. 2:08-cv-00997-SRB

**ORDER**

**MICHAEL LACEY; JIM LARKIN;  
PHOENIX NEW TIMES, LLC,**

Plaintiffs - Appellees,

v.

**JOSEPH M. ARPAIO, Sheriff and  
husband; AVA ARPAIO, wife; JOHN  
DOES I-X; JANE DOES I-X; BLACK  
CORPORATIONS, I-V; WHITE**

No. 09-15806

D.C. No. 2:08-cv-00997-SRB

**PARTNERSHIPS, I-V; MARICOPA  
COUNTY ATTORNEY'S OFFICE, a  
public entity,**

Defendants,

and

**DENNIS WILENCHIK; BECKY  
BARTNESS, wife,**

Defendants - Appellants.

**KOZINSKI**, Chief Judge:

Upon the vote of a majority of nonrecused 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 Silverman and Murguia did not participate in the deliberations or vote in this case.