

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

JAREK MOLSKI; DISABILITY RIGHTS  
ENFORCEMENT EDUCATION SERVICES:  
HELPING YOU HELP OTHERS, a  
California public benefit  
corporation,

*Plaintiffs-Appellants,*

v.

EVERGREEN DYNASTY CORP., d/b/a  
MANDARIN TOUCH RESTAURANT;  
BRIAN McINERNEY; KATHY S.  
McINERNEY, as joint tenants,

*Defendants-Appellees.*

No. 05-56452  
D.C. No.  
CV-04-00450-ER  
Central District of  
California,  
Los Angeles  
**ORDER**

Filed April 22, 2008

Before: Jerome Farris and Ronald M. Gould, Circuit Judges,  
and Kevin Thomas Duffy,\* District Judge.

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**ORDER**

The order denying the Petition for Rehearing En Banc in this case, filed on April 7, 2008, is amended as follows:

In the second paragraph, the first full sentence is deleted and is replaced with the following text: “The full court has been advised of Plaintiff/Appellant’s Petition for Rehearing En Banc, and a judge of this court requested a vote on whether this case should be reheard en banc; however, a

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\*The Honorable Kevin Thomas Duffy, Senior United States District Judge for the Southern District of New York, sitting by designation.

majority of the non-recused active judges of the court did not vote in favor of en banc consideration.”

A sentence is added at the end of the order stating: “Judges Graber and Fisher were recused from considering the en banc issues in this case and did not participate in the court’s decision.”



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