

FOR PUBLICATION

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

WASHINGTON LEGAL FOUNDATION;
ALLEN D. BROWN; DENNIS H. DAUGS;
GREG HAYES; L. DIAN MAXWELL,

Plaintiffs-Appellants,

v.

LEGAL FOUNDATION OF
WASHINGTON; KEVIN F. KELLY;
BARBARA DURHAM, CHIEF JUSTICE;
GERRY L. ALEXANDER, JUSTICE; JAMES
M. DOLLIVER, JUSTICE; RICHARD P.
GUY, JUSTICE; CHARLES WAYNE
JOHNSON, JUSTICE; BARBARA A.
MADSEN, JUSTICE; CHARLES Z. SMITH,
JUSTICE; PHILIP A. TALMADGE,
JUSTICE,

Defendants-Appellees.

No. 98-35154

DC No. CV-97-00146-JCC
(Western Washington)
ORDER

Filed May 9, 2001

BEFORE: SCHROEDER, Chief Judge.

Upon the vote of a majority of nonrecused regular active judges of this court,¹ it is ordered that this case be reheard by the en banc court pursuant to

¹ Judges McKeown and Gould were recused.

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.