

FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 29 2018

FOR THE NINTH CIRCUIT

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

**AMERICAN BEVERAGE
ASSOCIATION; CALIFORNIA
RETAILERS ASSOCIATION,**

Plaintiffs-Appellants,

and

**CALIFORNIA STATE OUTDOOR
ADVERTISING ASSOCIATION,**

Plaintiff,

v.

**CITY AND COUNTY OF SAN
FRANCISCO,**

Defendant-Appellee.

No. 16-16072

D.C. No. 3:15-cv-03415-EMC
Northern District of California,
San Francisco

ORDER

**AMERICAN BEVERAGE
ASSOCIATION; CALIFORNIA
RETAILERS ASSOCIATION,**

Plaintiffs,

and

**CALIFORNIA STATE OUTDOOR
ADVERTISING ASSOCIATION,**

Plaintiff-Appellant,

v.

**CITY AND COUNTY OF SAN
FRANCISCO,**

Defendant-Appellee.

No. 16-16073

D.C. No. 3:15-cv-03415-EMC

THOMAS, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that these cases be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel disposition in these cases shall not be cited as precedent by or to any court of the Ninth Circuit.

Judge Bybee did not participate in the deliberations or vote in these cases.