



U.S. Department of Justice

Civil Division

Washington, D.C. 20530

March 21, 2012

Honorable Edward R. Korman
United States District Judge
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Abidor, et al. v. Napolitano, et al. CV-10-4059 (Korman, J.) (Azrack, M.J.)

Dear Judge Korman:

Defendants respectfully write to inform the Court that, on March 19, 2012, the Ninth Circuit ordered en banc rehearing in United States v. Cotterman, 637 F. 3d 1068 (9th Cir. 2011), discussed in Defendants' supplemental letter brief dated March 31, 2011 (Dkt. 20). A copy of the Ninth Circuit order is attached hereto.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

STUART DELERY
Acting Assistant Attorney General

ELLIOT M. SCHACHNER
Assistant U.S. Attorney

s/Marcia Sowles
MARCIA SOWLES
Senior Counsel
U.S. Department of Justice, Civil Division

cc: Counsel of Record
(Via ECF, w/encl.)

FILED

MAR 19 2012

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

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

v.

HOWARD WESLEY COTTERMAN,

Defendant - Appellee.

No. 09-10139

D.C. No. 4:07-cr-01207-RCC-CRP-1

ORDER

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.