

1 BETH S. BRINKMANN  
 Deputy Assistant Attorney General  
 2 DOUGLAS N. LETTER  
 Terrorism Litigation Counsel  
 3 JOSEPH H. HUNT  
 Director, Federal Programs Branch  
 4 VINCENT M. GARVEY  
 Deputy Branch Director  
 5 ANTHONY J. COPPOLINO  
 Special Litigation Counsel  
 6 MARCIA BERMAN  
 Senior Trial Counsel  
 7 PAUL E. AHERN  
 Trial Attorney  
 8 U.S. Department of Justice  
 Civil Division, Federal Programs Branch  
 9 20 Massachusetts Avenue, N.W.  
 Washington, D.C. 20001  
 10 Phone: (202) 514-4782  
 Fax: (202) 616-8460

11 *Attorneys for the Government Defendants*  
 12 *Sued in their Official Capacity*

13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**  
 15 **SAN FRANCISCO DIVISION**

17 \_\_\_\_\_ )  
 CAROLYN JEWEL, TASH HEPTING, )  
 18 GREGORY HICKS, ERIK KNUTZEN, and )  
 JOICE WALTON, )  
 19 *Plaintiffs,* )  
 20 )  
 v. )  
 21 )  
 NATIONAL SECURITY AGENCY (“NSA”); )  
 22 KEITH B. ALEXANDER, Director of the NSA; )  
 UNITED STATES OF AMERICA; )  
 23 BARACK OBAMA, President of the United )  
 States; UNITED STATES DEPARTMENT OF )  
 24 JUSTICE; ERIC HOLDER, Attorney General )  
 of the United States; DENNIS C. BLAIR, )  
 25 Director of National Intelligence. )  
 )  
 26 *Government Defendants* )  
*Sued in Their Official Capacity.* )  
 27 \_\_\_\_\_ )

Case No. C:08-cv-4373-VRW  
**EXHIBIT 1 TO**  
**NOTICE OF ORDER BY**  
**COURT OF APPEALS GRANTING**  
**REHEARING EN BANC IN**  
**MOHAMED V. JEPPESEN**  
**DATAPLAN, INC.**

Chief Judge Vaughn R. Walker

**FILED**

**FOR PUBLICATION**

OCT 27 2009

**UNITED STATES COURT OF APPEALS**

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

**FOR THE NINTH CIRCUIT**

**BINYAM MOHAMED; ABOU  
ELKASSIM BRITEL; AHMED  
AGIZA; MOHAMED FARAG AHMAD  
BASHMILAH; BISHER AL-RAWI,**

Plaintiffs - Appellants,

v.

**JEPPESEN DATAPLAN, INC.,**

Defendant - Appellee,

**UNITED STATES OF AMERICA,**

Intervenor - Appellee.

No. 08-15693

D.C. No. 5:07-CV-02798-JW

**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.

Judges Reinhardt, McKeown, Gould, Bybee, Milan D. Smith, Jr. and Ikuta did not participate in the deliberations or vote in this case.