

FILED

NOT FOR PUBLICATION

JAN 28 2011

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

KENNETH J. SCHMIER,

Plaintiff - Appellant,

v.

JUSTICES OF THE CALIFORNIA  
SUPREME COURT; MEMBERS OF  
THE JUDICIAL COUNCIL OF  
CALIFORNIA; SCOTT DREXEL, in his  
capacity as Chief Trial Counsel for the  
State Bar of California; KENNETH  
SCHWARTZ, in his capacity as Traffic  
Judge, Dept. C54, Superior Court of  
California, County of Orange,

Defendants - Appellees.

No. 09-17195

D.C. No. 3:09-cv-02740-WHA  
Northern District of California,  
San Francisco

ORDER

Before: HAWKINS and N.R. SMITH, Circuit Judges, and PRO, District Judge. \*

Judge N.R. Smith has voted to deny Appellant's petition for rehearing en banc.

Judge Hawkins and Judge Pro have recommended denying the en banc petition.

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\* The Honorable Philip M. Pro, United States District Judge for the District of Nevada, sitting by designation.

The full court has been advised of the petition for rehearing en banc and no Judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing en banc is **DENIED**.