

FILED

UNITED STATES COURT OF APPEALS

FEB 19 2009

FOR THE NINTH CIRCUIT

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

In re: ROBERTO COHEN.

No. 09-70378

ROBERTO COHEN,

D.C. No. 5:08-cv-04260-JW
Northern District of California,
San Jose

Petitioner,

v.

ORDER

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA (SAN JOSE),

Respondent,

LISA MILLER, on behalf of herself and
others similarly situated; et al.,

Real Parties in Interest.

Before: KOZINSKI, Chief Judge, and GOULD, Circuit Judge.

This petition for a writ of mandamus raises issues that warrant a response. *See* Fed. R. App. P. 21(b). Within 14 days after the date of this order, the real parties in interest shall file a response. The district court, within 14 days after the date of this order, is also requested to file a response. Petitioner may file a reply

within 5 days after service of the response(s). The petition, response(s) and any reply shall be referred to the next available motions panel.

Appellant's motion to stay proceedings in the district court pending disposition of this petition for writ of mandamus is denied without prejudice to renewal following presentation to the district court of a motion to stay district court proceedings, and its ruling thereon. *See* Fed. R. App. P. 8(a).