

**FILED**

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**MAY 8 2024**

**FOR THE NINTH CIRCUIT**

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

MARCIA STEIN; RODOLFO BONE, Qui  
Tam Relators; ex rel. United States of  
America,

Plaintiffs-Appellants,

and

UNITED STATES OF AMERICA,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., a California corporation; KAISER  
FOUNDATION HOSPITALS, a California  
corporation; KAISER FOUNDATION  
HEALTH PLAN OF COLORADO, A  
Colorado Corporaton; KAISER  
FOUNDATION HEALTH PLAN OF  
GEORGIA, INC., a Georgia corporation;  
KAISER FOUNDATION HEALTH PLAN  
OF THE MID-ATLANTIC STATES, INC.,  
a Maryland corporation; KAISER  
FOUNDATION HEALTH PLAN OF THE  
NORTHWEST, an Oregon corporation;  
KAISER FOUNDATION HEALTH PLAN  
OF WASHINGTON, a Washington  
corporation; PERMANENTE MEDICAL  
GROUP, INC., a California corporation;  
SOUTHERN CALIFORNIA  
PERMANENTE MEDICAL GROUP;

No. 22-15862

D.C. Nos. 3:16-cv-05337-EMC

3:13-cv-03891-EMC

Northern District of California,  
San Francisco

**ORDER**

COLORADO PERMANENTE MEDICAL GROUP, a Colorado corporation; SOUTHEAST PERMANENTE MEDICAL GROUP; HAWAII PERMANENTE MEDICAL GROUP; MID-ATLANTIC PERMANENTE MEDICAL GROUP; NORTHWEST PERMANENTE, P.C.; GROUP HEALTH PERMANENTE; KAISER PERMANENTE,

Defendants-Appellees.

**MURGUIA**, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel disposition is vacated.

Judges Ikuta and Owens did not participate in the deliberations or vote in this case.