

JUN 16 2008

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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

<p>ROBERT M. NELSON; et al.,</p> <p style="text-align: center;">Plaintiffs - Appellants,</p> <p style="text-align: center;">v.</p> <p>NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, an Agency of the United States; et al.,</p> <p style="text-align: center;">Defendants,</p> <p style="text-align: center;">and</p> <p>CALIFORNIA INSTITUTE OF TECHNOLOGY,</p> <p style="text-align: center;">Defendant - Appellee.</p>

No. 08-55308

D.C. No. CV-07-05669-ODW
Central District of California,
Los Angeles

ORDER

Before: THOMPSON and WARDLAW, Circuit Judges, and REED,* District Judge.

1. The parties shall file simultaneous letter briefs not to exceed ten pages within twenty-one days of the date of this order on the questions of:

A. Did the district court have jurisdiction to enter its January 16, 2008 order dismissing Caltech from this action, given that the mandate in Appeal

* The Honorable Edward C. Reed, Jr., Senior United States District Judge for the District of Nevada, sitting by designation.

No. 07-56424 had not, and as of this date has not, issued? If not, what is the legal effect of the dismissal of Caltech?

B. Do we have appellate jurisdiction to entertain this appeal, and, if so, what is the statutory or other authority so providing?

C. May, and if so should, Appellants' notice of appeal be recharacterized as a petition for mandamus or other form of relief?

2. The Order to Show Cause is discharged.

IT IS SO ORDERED.