

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 28 2021

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

OLEAN WHOLESALE GROCERY
COOPERATIVE, INC., BEVERLY
YOUNGBLOOD, PACIFIC
GROSERVICE, INC., DBA Pitco Foods,
CAPITOL HILL SUPERMARKET,
LOUISE ANN DAVIS MATTHEWS,
JAMES WALNUM, COLIN MOORE,
JENNIFER A. NELSON, ELIZABETH
DAVIS-BERG, LAURA CHILDS; et al.,

Plaintiffs-Appellees,

and

JESSICA DECKER, JOSEPH A.
LANGSTON, SANDRA POWERS,
GRAND SUPERCENTER, INC., THE
CHEROKEE NATION, US FOODS, INC.,
SYSCO CORPORATION, GLADYS, LLC,
SPARTANNASH COMPANY, BRYAN
ANTHONY REO,

Plaintiffs,

v.

BUMBLE BEE FOODS LLC; et al.,

Defendants-Appellants,

and

KING OSCAR, INC.; et al.,

Defendants.

No. 19-56514

D.C. No.

3:15-md-02670-JLS-MDD

Southern District of California,
San Diego

ORDER

Before: KLEINFELD, HURWITZ, and BUMATAY, Circuit Judges.

A judge of this court has called for a vote to determine whether this case should be reheard en banc. The parties are directed to file simultaneous briefs setting forth their respective positions as to whether this case should be reheard en banc. The parties should specifically discuss whether Federal Rule of Civil Procedure 23(b)(3) requires a district court to find that no more than a “de minimis” number of class members are uninjured before certifying a class. The briefs shall not exceed 15 pages or 4,200 words and shall be filed within twenty-one (21) days of the date of this order.