

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-00028

VICTORIA KLEIN; ASHLEY SWADLEY

Plaintiffs - Respondents

v.

O'NEAL INC, a subsidiary of Dyson-Kissner-Moran Corporation
formerly known as O'Neal Jones & Feldman Pharmaceuticals;
CVS PHARMACY INC, formerly known as CVS Revco
DS Inc, formerly known as Revco DS Inc; CARTER-GLOGAU
LABORATORIES, also known as Retrac Inc

Defendants - Petitioners

Petitions for Leave to Appeal
under Fed. R. Civ. P. 23(f)

ON PETITION FOR REHEARING EN BANC

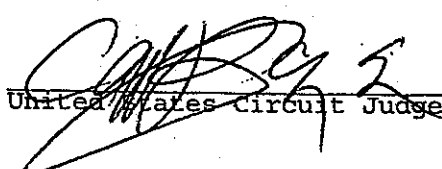
Before WIENER, DeMOSS, and PICKERING, Circuit Judges.

PER CURIAM:

(X) Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

() Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. The court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service not having voted in favor (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:


United States Circuit Judge

Emil
J. Miller
8/2/04

U. S. COURT OF APPEALS
FILED
AUG 20 2004
CHARLES R. FULBRUGE III
CLERK