

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 08-10146

**WINE COUNTRY GIFT BASKETS.COM; K&L WINE MERCHANTS;
BEVERAGES
& MORE INC; DAVID L TAPP; RONALD L PARRISH; JEFFREY R DAVIS**

Plaintiffs - Appellants-Cross-Appellees

v.

**JOHN T. STEEN, JR., Commissioner of the Texas Alcoholic
Beverage Commission; GAIL MADDEN, Commissioner of
the Texas Alcoholic Beverage Commission; JOSE CUEVAS,
JR., Commissioner of the Texas Alcoholic Beverage
Commission**

Defendants - Appellees-Cross-Appellants

**ALLEN STEEN, in his official capacity as administrator of
the Texas Alcoholic Beverage Commission**

Defendant - Appellee-Cross-Appellant

**GLAZERS WHOLESALE DRUG COMPANY, INC; REPUBLIC BEVERAGE
COMPANY**

Intervenor Defendants - Appellees-Cross-Appellants

Appeal from the United States District Court for the
Northern District of Texas, Dallas

ON PETITION FOR REHEARING EN BANC

(Opinion _____, 5 Cir., _____, _____, F.3d _____)

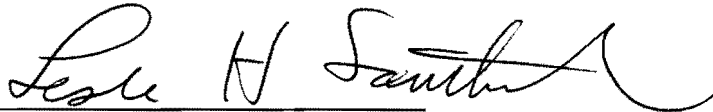
Before JOLLY, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:

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 and not disqualified 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