

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 22-2289

WINN-DIXIE STORES, INC.; BI-LO HOLDINGS, LLC,
Appellants

v.

EASTERN MUSHROOM MARKETING COOPERATIVE, INC.; ROBERT A. FERANTO, JR., t/A Bella Mushroom Farms; BROWNSTONE MUSHROOM FARMS, INC.; TO-JO FRESH MUSHROOMS, INC.; CARDILE MUSHROOMS, INC.; CARDILE BROS. MUSHROOMS PACKAGING; COUNTRY FRESH MUSHROOM CO.; FOREST MUSHROOM, INC.; FRANKLIN FARMS, INC.; GINO GASPARI & SONS, INC.; GASPARI BROS. INC.; GIORGI MUSHROOM COMPANY; GIORGIO FOODS, INC.; KAOLIN MUSHROOM FARMS, INC.; SOUTH MILL MUSHROOM SALES, INC.; LRP MUSHROOMS INC.; LRP-M MUSHROOMS LLC; LEONE PIZZINI AND SON, INC.; MODERN MUSHROOMS FARMS, INC.; SHER-ROCKEE MUSHROOM FARM; C & C CARRIAGE MUSHROOM CO.; OAKSHIRE MUSHROOM FARM, INC.; PHILLIPS MUSHROOM FARMS, INC.; HARVEST FRESH FARMS, INC.; LOUIS M. MARSON, JR., INC.; MARIO CUTONE MUSHROOM CO., INC.; M.D. BASCIANI & SONS, INC.; MONTEREY MUSHROOMS, INC.; MASHA & TOTO, INC., t/a M&T Mushrooms; W & P MUSHROOM, INC.; MUSHROOM ALLIANCE, INC.; CREEKSIDE MUSHROOMS LTD; J-M FARMS, INC.; UNITED MUSHROOM FARMS COOPERATIVE, INC.; JOHN PIA; MICHAEL PIA

On Appeal from the United States District Court
for the Eastern District of Pennsylvania

(D. C. No. 5-15-cv-06480)

District Judge: Honorable Berle M. Schiller

SUBMITTED ON PETITION FOR PANEL REHEARING AND REHEARING EN
BANC

Before: CHAGARES, Chief Judge, JORDAN, HARDIMAN, SWARTZ, KRAUSE,
RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-
REEVES, and CHUNG, Circuit Judges

ORDER

The petition for rehearing filed by Appellants Winn-Dixie Stores, Inc. and Bi-Lo Holdings, LLC in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is GRANTED. The Court's opinion of August 28, 2023 is hereby VACATED. An amended opinion shall be filed contemporaneously with this order. As the panel has granted the petition for rehearing, no further action will be taken by the en banc Court.

By the Court,

s/ Cheryl A. Krause
Circuit Judge

Date: December 26, 2023

Tmm/cc: All Counsel of Record