

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUITUnited States Court of Appeals
Fifth Circuit**FILED**

July 27, 2009

No. 07-40651

CODY WHEELER; DON DAVIS; DAVEY WILLIAMS

Charles R. Fulbruge III
Clerk

Plaintiffs-Appellees

vs.

PILGRIM'S PRIDE CORP

Defendant-Appellant

- - - - -
Appeal from the United States District Court for the
Eastern District of Texas
- - - - -

ON PETITION FOR REHEARING EN BANC

(Opinion July 21, 2008, 5 Cir., 2008, ____F.3d____)

(July 27, 2009)

BEFORE: JONES, Chief Judge, KING, JOLLY, DAVIS, SMITH, WIENER,
BARKSDALE, GARZA, BENAVIDES, STEWART, DENNIS, PRADO,
OWEN, ELROD, SOUTHWICK and HAYNES, Circuit Judges.¹

BY THE COURT:

A member of the court having requested a poll on the petition for rehearing en banc, and a majority of the circuit judges in regular active service and not disqualified having voted in favor,

It is ordered that this cause shall be reheard by the court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs.

¹Judge Clement is recused and did not participate.