

PUBLISH

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 98-2498

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
MAY 5 2000
THOMAS K. KAHN
CLERK

D. C. Docket Nos. 93-1077-CIV-T-23B, 93-1264-CIV-23A,
94-1437-CIV-T-23A, 95-35-CIV-23B

MORTON'S MARKET, INC.;
J & J PRODUCE AND DELI, INC.,

Plaintiffs-Appellants,

versus

GUSTAFSON'S DAIRY, INC.,

Defendant,

BORDEN, INC.; T. G. LEE FOODS, INC., et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(May 5, 2000)

Before ANDERSON, Chief Judge, and HILL, Senior Circuit Judge, and COOK*,
Senior District Judge.

*Honorable Julian Abele Cook, Jr., Senior U. S. District Judge for the Eastern District of
Michigan, sitting by designation.

BY THE COURT:

This case is before the court upon plaintiff's Motion for Clarification, filed on January 10, 2000. Defendant Pet, Inc. filed its response on January 20, 2000. The motion is GRANTED to the following extent: the Clerk is directed to amend the opinion entered in this case on December 20, 1999, and published at 198 F.3d 823 by (1) adding a phrase and a sentence to the end of the second sentence in Part III, which shall read as follows:

As to Pet, we hold that it effectively withdrew from the conspiracy in 1985 and, as to it, these actions are not timely-filed *unless the statute was equitably tolled by fraudulent concealment. If so, Pet would be liable for any price-fixing activity prior to its withdrawal.*

and (2) amending the holding, which now reads "AFFIRM IN PART, REVERSE IN PART and REMAND" to "***REVERSE and REMAND***," all as shown on pages 839-40 of the opinion which is attached hereto as Appendix "A." The motion is DENIED in all other respects.

DONE AND ORDERED this 4th day of May, 2000.