

JUL 14 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: NIKKI POOSHS,

No. 08-73153

NIKKI POOSHS,

D.C. No. 3:04-cv-01221-PJH

Petitioner,

MEMORANDUM*

v.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA, SAN FRANCISCO,

Respondent,

PHILLIP MORRIS USA, INC.; PHILIP
MORRIS COMPANIES, INC.; R.J.
REYNOLDS TOBACCO HOLDINGS,
INC.; R.J. REYNOLDS TOBACCO
COMPANY; NABISCO GROUP
HOLDINGS CORP.; NABISCO INC.;
BROWN AND WILLIAMSON
TOBACCO CORPORATION,
individually and as successor by merger to
The American Tobacco Company and its
predecessors in interest; BRITISH
AMERICAN TOBACCO COMPANY
PLC; LORILLARD TOBACCO
COMPANY; LORILLARD INC.;
LIGGETT GROUP INCORPORATED;

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

LIGGETT & MYERS INC.; LIGGETT
AND MYERS TOBACCO COMPANY;
VECTOR GROUP LTD.; HILL &
KNOWLTON INC; TOBACCO
INSTITUTE, INC.; COUNCIL FOR
TOBACCO RESEARCH USA
INCORPORATED; DNA PLANT
TECHNOLOGY, CORPORATION;
SAFEWAY INC.,

Real Parties in Interest.

Appeal from the United States District Court
Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Argued and Submitted December 12, 2008
San Francisco, California

Before: B. FLETCHER and McKEOWN, Circuit Judges, and HART, District
Judge.**

The Petition for Writ of Mandamus is DENIED.

** The Honorable William T. Hart, Senior District Judge for
the Northern District of Illinois, sitting by designation.