

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 1 2019

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

THEODORE BROOMFIELD, individually
and on behalf of all others similarly situated,

Plaintiff-Respondent,

v.

CRAFT BREW ALLIANCE, INC., DBA as
Kona Brewing, Co.,

Defendant-Petitioner.

No. 18-80145

D.C. No. 5:17-cv-01027-BLF
Northern District of California,
San Jose

ORDER

Before: THOMAS, Chief Judge, GOULD and PAEZ, Circuit Judges.

The court, in its discretion, denies the petition for permission to appeal the district court's September 25, 2018 order granting class action certification. *See* Fed. R. Civ. P. 23(f); *Chamberlan v. Ford Motor Co.*, 402 F.3d 952 (9th Cir. 2005).

Judge Gould respectfully dissents and would grant the petition for the reasons that (1) certification may cause the defendant unduly to feel pressed to reach a settlement without regard to merits because of the size of the California market for beer; (2) certification could resolve important unsettled legal questions presented in the petition where the Supreme Court's position may be uncertain, and thus certification could contribute to the development of the law; and (3) as for

whether there is manifest error, that is less clear because of my view that the law is somewhat unsettled, but the importance of the issues to me favor review.