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KIRAN KAUR, individually, and on behalf of other members of the general public similarly situated, Plaintiff-Petitioner, v. THINGS REMEMBERED, INC., a Delaware Corporation, Defendant-Respondent.

No. 16-80060

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

2016 U.S. App. LEXIS 13265

July 20, 2016, Filed

PRIOR HISTORY: [*1] D.C. No. 3:14-cv-05544-VC. Northern District of California, San Francisco.

COUNSEL: For KIRAN KAUR, individually, and on behalf of other members of the general public similarly situated, Plaintiff - Petitioner: Glenn A. Danas, Attorney, Robert Drexler, Jr., Attorney, Katherine Ward Kehr, Bevin Allen Pike, Capstone Law APC, Los Angeles, CA.

For THINGS REMEMBERED, INC., a Delaware Corporation, Defendant - Respondent: Amanda N. Fu, Marlene S. Muraco, Attorney, Kimberly Gee Ramos, Littler Mendelson, P.C., San Jose, CA; Alexa Woerner, Esquire, Attorney, Littler Mendelson, P.C., Walnut Creek, CA.

JUDGES: Before: KOZINSKI and PAEZ, Circuit Judges.

OPINION**ORDER**

Petitioner's motion for leave to file a reply in support of the petition is granted. The reply has been filed.

The court, in its discretion, grants the petition for permission to appeal the district court's April 20, 2016 order denying class action certification. *See Fed. R. Civ. P. 23(f); Chamberlan v. Ford Motor Co., 402 F.3d 952 (9th Cir. 2005)* (per curiam). Within 14 days after the date of this order, petitioner shall perfect the appeal in accordance with *Federal Rule of Appellate Procedure 5(d)*.

In addition to all other issues the parties may wish to raise in this appeal, the parties shall brief the issue of whether the district court should have considered less drastic alternatives [*2] before denying class certification based on concerns with the vigor of class counsel's representation. *See, e.g., Busby v. JRHBW Realty, Inc., 513 F.3d 1314, 1323-24 (11th Cir. 2008)* ("In the event that class counsel does act improperly, the ordinary remedy is disciplinary action against the lawyer and remedial notice to class members, not denial of class certification.") (internal citation omitted).

The court sua sponte grants any individual or entity leave under *Federal Rule of Appellate Procedure 29(a)* to file an amicus curiae brief addressing the above-stated issue in this appeal. The brief(s) shall comply with *Federal Rule of Appellate Procedure 29(c)* and *(d)*; the due dates are governed by *Rule 29(e)*.

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