

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re RAIL FREIGHT FUEL SURCHARGE
ANTITRUST LITIGATION

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) MDL Docket No. 1869
) Misc. No. 07-489 (PLF)

This document relates to:

ALL DIRECT PURCHASER CASES

MEMORANDUM OPINION AND ORDER

By Order dated June 21, 2012, the Court granted the direct purchaser plaintiffs' motion for class certification. See In re Rail Freight Fuel Surcharge Antitrust Litig., Misc. No. 07-489, 2012 WL 2366165, at *1 (D.D.C. June 21, 2012). The Opinion accompanying that Order temporarily was issued under seal in its entirety in view of the possibility that the Court referenced "Confidential" or "Highly Confidential – Attorneys' Eyes Only" material, as described in the Protective Order issued in this case. Id. at *2. The Court emphasized, however, that its Opinion of June 21, 2012 would not remain under seal, and ordered the parties to meet and confer and file a joint report showing cause why that Opinion should not be published in full without redactions on the public docket of this Court. Id.

On July 11, 2012, the parties filed a joint report setting forth their respective positions regarding redactions. See Joint Report at 1, July 11, 2012 [Dkt. No. 544]. Defendants propose "a limited set of specific passages" to keep out of the public record, and defendants have submitted under seal an attachment, labeled Attachment A, in which they reference and quote specific passages in the Court's June 21, 2012 Opinion for redaction. Id. Plaintiffs oppose all of

defendants' proposed redactions and submit that none of the material identified by defendants in Attachment A warrants protection under the terms of the Protective Order issued in this case. Id.

The Court carefully has reviewed the parties' joint report and the defendants' specific proposed redactions set forth under seal in Attachment A. The Court also carefully has reviewed the transcript of the public class certification motions hearing of October 6 and 7, 2010, to determine whether any of the material that defendants now propose to keep under seal was referenced without objection in open court. Neither side requested any redactions to that motions hearing transcript, and it has been publicly available on the docket since January 10, 2011. See Dkt. Nos. 446 & 447.

Upon consideration of the parties' papers, the relevant legal authorities, and the entire record in this case, the Court finds that some of defendants' proposed redactions are appropriate and others are not. The Court's specific findings will be reflected in the redacted version of the Court's June 21, 2012 Opinion published on the public docket this same day.

Accordingly, it is hereby

ORDERED that defendants' request for redactions, as set forth under seal in Attachment A [Dkt. No. 544-2] to the parties' joint report, is GRANTED in part and DENIED in part; and it is

FURTHER ORDERED that the Clerk of this Court shall publish on the public docket the redacted version of this Court's June 21, 2012 Opinion granting the direct purchaser plaintiffs' motion for class certification.

SO ORDERED.

DATE: July 13, 2012

/s/

PAUL L. FRIEDMAN
United States District Judge