

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

In re RAIL FREIGHT FUEL SURCHARGE  
ANTITRUST LITIGATION

This document relates to:

ALL DIRECT PURCHASER CASES

MDL Docket No. 1869  
Miscellaneous No. 07-0489 (PLF)

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Joint Statement Regarding Proposals for Modifying the Protective Order Per the Court’s November 14, 2019 Order [Dkt. No. 889] filed by the parties on November 22, 2019. First, insofar as there is a dispute as to which cases will be a part of the MDL before either this Court or possibly some other court, the Court has assumed that all the cases that have been identified to the Court – including the original cases filed here, the thirty or so cases filed in other districts, and the seven new cases recently filed in this Court as related to Miscellaneous No. 07-0489 – would be included in the MDL should the MDL Panel refer the tag-along cases to the undersigned. The parties seem to disagree about what action (if any) the MDL Panel will take with respect to the seven new cases in this Court. See MDL Panel Rule 7.2(a). If the MDL Panel refers the tag-along cases to the undersigned, the Court relies upon the parties to make sure that all cases are consolidated before this Court either by their filings before the MDL Panel or appropriate motions filed in this Court.<sup>1</sup>

<sup>1</sup> The Oxbow case at a minimum would proceed on the same track as the earliest cases with respect to summary judgment briefing and argument.

Second, the discovery disputes presented by the Joint Statement are precisely the kinds of matters the Court advised the parties at the status conference on November 14, 2019 that it had no intention of devoting its time to over the course of the next twelve months or so. Accordingly, if the parties cannot resolve their squabbles with respect to modifications to the existing protective order by the close of business on Monday, December 2, 2019, the Court will refer the disputes regarding the protective order to Magistrate Judge Michael Harvey for prompt resolution either through mediation or decision.

SO ORDERED.

---

PAUL L. FRIEDMAN  
United States District Judge

DATE: November 26, 2019