

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-7085

September Term, 2012

FILED ON: AUGUST 9, 2013

IN RE: RAIL FREIGHT FUEL SURCHARGE ANTITRUST LITIGATION - MDL NO. 1869,

BNSF RAILWAY COMPANY, ET AL.,
PETITIONERS

Appeal from the United States District Court
for the District of Columbia

Before: GARLAND, *Chief Judge*, BROWN, *Circuit Judge*, and SENTELLE, *Senior Circuit Judge*

J U D G M E N T

This cause came to be heard on a petition for leave to appeal pursuant to Fed. R. Civ. P. 23(f), and the record on appeal from the United States District Court for the District of Columbia and was argued by counsel. On consideration thereof, it is

ORDERED that interlocutory review under Rule 23(f) be granted. It is

FURTHER ORDERED and ADJUDGED the District Court's class certification decision appealed from in this cause is hereby vacated and the case is remanded to permit the district court to reconsider its decision in light of *Comcast Corp. v. Behrend*, in accordance with the opinion of the court filed herein this date.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

/s/
Jennifer M. Clark
Deputy Clerk

Date: August 9, 2013

Opinion for the court filed by Circuit Judge Brown.