

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)
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This document relates to:

DIRECT PURCHASER PLAINTIFFS

ORDER

This matter is before the Court on defendants' motion to dismiss the direct purchaser plaintiffs' consolidated amended class action complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim on which relief can be granted. Upon careful consideration of the parties' arguments in their papers and the oral arguments presented before the Court on October 10, 2008, and for the reasons explained in the Court's Opinion issued this same day, the Court concludes that the motion to dismiss must be denied.

Accordingly, it is hereby

ORDERED that defendants' motion to dismiss for failure to state a claim on which relief may be granted [106] is DENIED.

SO ORDERED.

/s/
PAUL L. FRIEDMAN
United States District Judge

DATE: November 7, 2008