

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

May 31, 2013

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

In re: Motor Fuel Temperature Sales
Practices Litigation.

Nos. 13-601 & 13-602
(D.C. No. 2:07-MD-01840-KHV-JPO)

ORDER

Before **BRISCOE**, Chief Judge, **KELLY** and **TYMKOVICH**, Circuit Judges.

These petitions for review are consolidated for disposition. These matters are before the court on the defendants' petitions for permission to appeal the district court's orders granting class certification. *See* Fed. R. App. P. 5; Fed. R. Civ. P. 23(f). The decision whether to grant the petition is purely discretionary. *See* Fed. R. Civ. P. 23(f); *Vallario v. Vandehey*, 554 F.3d 1259, 1262 (10th Cir. 2009) (this discretion is “unfettered and akin to the discretion exercised by the Supreme Court in acting on a petition for certiorari.”) (quoting Fed. R. Civ. P. 23(f) advisory committee's note).

Upon a careful review of the materials filed with this court and the applicable law, we conclude that these matters are not appropriate for immediate review. None of the concerns noted by this court to justify an interlocutory appeal is present here. *Id.* at 1263-64.

Accordingly, the petitions for permission to appeal are **DENIED**.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

by: Ellen Rich Reiter
Jurisdictional Attorney