

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: WESTERN STATES
WHOLESALE NATURAL GAS
ANTITRUST LITIGATION,

No. 06-15950

D.C. No. CV-06-00282-PMP

SINCLAIR OIL CORPORATION,

MEMORANDUM *

Plaintiff - Appellant,

v.

ONEOK ENERGY SERVICES
COMPANY, L.P.,

Defendant - Appellee.

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Sinclair Oil Corporation appeals from the district court's judgment dismissing its action as barred by the Filed Rate Doctrine. We have jurisdiction pursuant to 28 U.S.C. § 1291. In light of defendant OneOK Energy Services Company, L.P.'s agreement that this case should be remanded following *E. & J. Gallo Winery v. EnCana Corp.*, 503 F.3d 1027 (9th Cir. 2007), we reverse and remand.

As the parties agreed in an October 22, 2009 filing, they shall bear their own costs on appeal.

REVERSED and REMANDED.