

08-372 SHELL OIL PRODUCTS V. MAC'S SHELL SERVICE

DECISION BELOW:524 F.3d 33

LOWER COURT CASE NUMBER: 05-2771

QUESTIONS PRESENTED:

The Petroleum Marketing Practices Act, 15 U.S.C. §§ 2801-2806, regulates the circumstances in which an oil refiner or distributor can "terminate" a service station franchise. In this case, the First Circuit, in conflict with the decisions of other courts of appeals, allowed service station operators to sue for "constructive termination" even though they continued to operate their stations (indeed, many were still operating their stations at the time of trial, almost five years after they claim to have been "constructively terminated"). The question presented is:

Whether a service station operator that continues to operate its franchise-using the same trademark, selling the same fuel, and occupying the same premises-can bring an action claiming that it was "constructively terminated" in violation of the Act.

CERT. GRANTED 6/15/2009

CONSOLIDATED WITH 08-240 FOR ONE HOUR ORAL ARGUMENT