

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-3983

IN RE: COMCAST CORP. SET-TOP CABLE TELEVISION BOX
ANTITRUST LITIGATION

James Deanne; William Gonzales; State of West Virginia,
Appellants

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 2-09-md-02034)
District Judge: Honorable Anita B. Brody

Submitted under Third Circuit LAR 34.1(a)
August 25, 2016

Before: FUENTES, KRAUSE, and SCIRICA, *Circuit Judges*

ORDER

This case came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on August 25, 2016.

Because the parties do not dispute that the District Court erred in denying certification to the proposed Settlement Class on the ground that the class was not ascertainable, and we are in agreement, we summarily REVERSE the judgment of the

District Court entered on November 5, 2015 and REMAND for further proceedings as appropriate in the District Court. The concern that a defendant be “able to test the reliability of the evidence submitted to prove class membership,” *Carrera v. Bayer Corp.*, 727 F.3d 300, 307 (3d Cir. 2013), is not implicated by this case, where the defendant has agreed that the evidence regarding class membership is sufficiently reliable. Similarly, the concern that “[t]he method of determining whether someone is in the class . . . be administratively feasible,” *id.*, is not implicated by this case, because the settlement agreement removes the need for a trial. *See Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 335 (3d Cir. 2011) (Scirica, J. concurring).

By the Court,

s/ Cheryl Ann Krause
Circuit Judge

ATTEST:

s/Marcia M. Waldron
Clerk

Dated: August 31, 2016