

**General Docket**  
**United States Court of Appeals for the Eleventh Circuit**

<b>Court of Appeals Docket #:</b> 14-11363 McWane, Inc., v. Federal Trade Commission <b>Appeal From:</b> Federal Trade Commission <b>Fee Status:</b> Fee Paid	<b>Docketed:</b> 03/28/2014 <b>Termed:</b> 04/15/2015 <b>Case Handler:</b> Caruso, Joe, CC (404) 335-6177
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**Case Type Information:**

- 1) Agency
- 2) Agency Petition for Review
- 3) -

**Originating Court Information:**

**District:** FTC-1 : 9351

**Prior Cases:**

None

**Current Cases:**

None

MCWANE, INC.,

Petitioner

Heather Souder Choi  
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 Baker Botts, LLP  
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versus

FEDERAL TRADE COMMISSION

Respondent

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 [COR LD NTC U.S. Government]  
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 THOMAS ARTHUR

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 (see above)

HENRY BUTLER	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
DAN CRANE	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
RICHARD EPSTEIN	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
DAMIEN GERADIN	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
GUY HURWITZ	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
KEITH HYLTON	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
THOMAS LAMBERT	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
GEOFFREY MANNE	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
FRED MCCHESENEY	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
BARAK ORBACH	Amicus Curiae	David M. Atkinson Direct: 404-881-3540 [COR NTC Retained] (see above)
STATE OF NEW YORK	Amicus Curiae	Judith Naomi Vale Direct: 212-416-6274 [COR LD NTC Government] Attorney General's Office Firm: 212-416-8240 120 BROADWAY NEW YORK, NY 10271
AMERICAN ANTITRUST INSTITUTE	Amicus Curiae	Daniel E. Gustafson Direct: 612-333-8844 [COR LD NTC Retained] Gustafson Gluek, PLLC Firm: 612-333-8844 120 S 6TH ST STE 2600 MINNEAPOLIS, MN 55402

MCWANE, INC.,	
	Petitioner,
versus	
FEDERAL TRADE COMMISSION,	
	Respondent.

03/28/2014	 112 pg, 7.76 MB	AGENCY PETITION / APPLICATION DOCKETED. Filed by Petitioner McWane, Inc.,. Fee Status: Fee Paid. 03/28/2014.
04/02/2014	 1 pg, 44.27 KB	APPEARANCE of Counsel Form filed by William Connor Lavery for McWane, Inc.,. (ECF: William Lavery)
04/02/2014		E-filed Appearance of Counsel processed for Attorney William Connor Lavery for Petitioner McWane, Inc., in 14-11363.
04/02/2014	 1 pg, 39.34 KB	Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Petitioner McWane, Inc.,. (ECF: William Lavery)
04/03/2014	 1 pg, 335.65 KB	APPEARANCE of Counsel Form filed by Theodore (Jack) Metzler for the Federal Trade Commission (ECF: Theodore Metzler)
04/03/2014	 1 pg, 26.62 KB	APPEARANCE of Counsel Form filed by John F. Daly for Federal Trade Commission (ECF: John Daly)
04/03/2014	 1 pg, 43.81 KB	APPEARANCE of Counsel Form filed by Joseph Allen Ostoyich for McWane, Inc.,. (ECF: William Lavery)
04/03/2014	 1 pg, 43.74 KB	APPEARANCE of Counsel Form filed by Erik Thomas Koons for McWane, Inc.,. (ECF: William Lavery)
04/03/2014	 1 pg, 43.97 KB	APPEARANCE of Counsel Form filed by Heather Souder Choi for McWane, Inc.,. (ECF: William Lavery)
04/03/2014		Added Attorney(s) Theodore Paul Metzler Jr. for party(s) Respondent Federal Trade Commission, in case 14-11363.
04/03/2014		Added Attorney(s) John F. Daly for party(s) Respondent Federal Trade Commission, in case 14-11363.
04/03/2014		E-filed Appearance of Counsel processed for Attorney Joseph Allen Ostoyich for Petitioner McWane, Inc., in 14-11363.
04/03/2014		E-filed Appearance of Counsel processed for Attorney Erik Thomas Koons for Petitioner McWane, Inc., in 14-11363.
04/03/2014		E-filed Appearance of Counsel processed for Attorney Heather Souder Choi for Petitioner McWane, Inc., in 14-11363.
04/09/2014	 1 pg, 18.6 KB	APPEARANCE of Counsel Form filed by Thomas W. Thagard III - McWane, Inc. (ECF: Thomas Thagard)
04/09/2014	 1 pg, 18.59 KB	APPEARANCE of Counsel Form filed by J. Alan Truitt - McWane, Inc. (ECF: Thomas Thagard)
04/09/2014		Added Attorney(s) Thomas W. Thagard III for party(s) Petitioner McWane, Inc., in case 14-11363.
04/11/2014		E-filed Appearance of Counsel processed for Attorney Thomas W. Thagard III for Petitioner McWane, Inc., in 14-11363.
04/16/2014		Added Attorney(s) John Alan Truitt for party(s) Petitioner McWane, Inc., in case 14-11363.
04/16/2014	 4 pg, 16.99 KB	Appellee's Certificate of Interested Persons and Corporate Disclosure Statement filed by Respondent Federal Trade Commission. (ECF: John Daly)
05/12/2014	 65 pg, 671.97 KB	Certified Index of the Record filed by Attorney Theodore Paul Metzler, Jr. for Respondent Federal Trade Commission. (ECF: Theodore Metzler)
05/13/2014	 65 pg, 16.54 MB	Certified Agency List filed as to Petitioner McWane, Inc.,.
05/14/2014	 2 pg, 17.18 KB	Briefing Notice issued to Petitioner McWane, Inc.,. The appellants brief is due on or before 06/23/2014. The appendix is due on or before 06/30/2014.
06/19/2014	 7 pg, 205.47 KB	<i>TIME SENSITIVE MOTION to seal filed by McWane, Inc.,. Opposition to Motion is Unknown. [7198752-1]</i> (ECF: John Truitt)
06/20/2014		Over the phone extension granted by clerk. Appellants brief due on 06/30/2014 as to Petitioner McWane, Inc.,. Appendix due on 07/07/2014 as to Petitioner McWane, Inc.,.
06/26/2014	 2 pg, 47.16 KB	<b>ORDER: Petitioner's "Motion for Leave to File All Documents Under Seal," is GRANTED to the extent that he seeks to file his initial brief and appendix under seal. To the extent that PETITIONER seeks to seal any other unidentified documents, the motion is DENIED WITHOUT PREJUDICE, subject to his ability to file a renewed motion that identifies the specific documents that he wishes to seal. Petitioner is DIRECTED to file electronically the redacted brief and redacted appendix, and to provide paper copies of the redacted and unredacted briefs and appendices, within fourteen days of the date of this Order. [7198752-2] (CRW)</b>
06/27/2014	 74 pg, 337.09 KB	Appellant's brief filed by McWane, Inc.,. (ECF: John Truitt)

06/30/2014  Received paper copies of EBrief filed by Petitioner McWane, Inc.,

06/30/2014  Received paper copies of EBrief filed by Petitioner McWane, Inc.,

07/03/2014   APPEARANCE of Counsel Form filed by David M. Atkinson for amicus curiae (ECF: David Atkinson)  
2 pg, 31.98 KB

07/03/2014  Added Attorney David M. Atkinson for Amicus Curiae Damien Geradin Amicus Curiae Geoffrey Manne Amicus Curiae Fred McChesney Amicus Curiae Dan Crane Amicus Curiae Guy Hurwitz Amicus Curiae Henry Butler Amicus Curiae Richard Epstein Amicus Curiae Keith Hylton Amicus Curiae Thomas Arthur Amicus Curiae Thomas Lambert Amicus Curiae Barak Orbach Amicus Curiae Roger Blair, in case 14-11363.

07/07/2014   Amicus Brief as of right or by consent of the parties filed by David M. Atkinson Amicus Curiae. (ECF: David Atkinson)  
38 pg, 212.96 KB

07/07/2014   Amicus Brief as of right or by consent of the parties filed by Richard P. Rouco and David Balto, Attorneys for Amicus Curiae USW. (ECF: Richard Rouco)  
31 pg, 387.76 KB

07/07/2014  Received paper copies of EBrief filed by Amicus Curium Thomas Arthur, Roger Blair, Henry Butler, Dan Crane, Richard Epstein, Damien Geradin, Guy Hurwitz, Keith Hylton, Thomas Lambert, Geoffrey Manne, Fred McChesney and Barak Orbach.

07/07/2014   Appendix filed [4 VOLUMES] by Petitioner McWane, Inc., (ECF: John Truitt)  
816 pg, 64.86 MB

07/08/2014  Received paper copies of EBrief filed by Amicus Curiae USW.

07/08/2014  Received paper copies of REDACTED EAppendix filed by Petitioner McWane, Inc., 4 VOLUMES - 2 SETS


07/11/2014   *MOTION for extension of time to file appellees brief to 08/29/2014 filed by Federal Trade Commission. Motion is Unopposed. [7215580-1]* (ECF: Theodore Metzler)  
7 pg, 14.5 KB

07/14/2014   **ORDER: The motion for extension of time to file the respondent's brief is GRANTED. The brief is due August 29, 2014, with the respondent's supplemental appendix, if any, due no later than seven days from that date. [7215580-2] (CRW)**

07/31/2014   APPEARANCE of Counsel Form filed by David C. Shonka for the Federal Trade Commission (ECF: David Shonka)  
1 pg, 26.61 KB

07/31/2014   Notice of withdrawal of counsel John F. Daly filed by Attorney Theodore Paul Metzler, Jr. for Respondent Federal Trade Commission. (ECF: Theodore Metzler)  
2 pg, 13.3 KB

07/31/2014  Added Attorney David Charles Shonka Sr. for Respondent Federal Trade Commission, in case 14-11363.

08/29/2014   *MOTION to seal filed by Federal Trade Commission. Motion is Unopposed. [7259051-1]* (ECF: Theodore Metzler)  
80 pg, 200.38 KB

08/29/2014   *MOTION for extension of time to file reply brief filed by McWane, Inc. Motion is unopposed. [7259060-1]-[Edited 08/29/2014 by JC]* (ECF: John Truitt)  
8 pg, 208.29 KB

08/29/2014   **\*\*\*Duplicate filing\*\*\**MOTION for additional time for oral argument filed by McWane, Inc., Motion is Unopposed. [7259062-1]-[Edited 08/29/2014 by JC]* (ECF: John Truitt)  
8 pg, 208.29 KB**

08/29/2014   Redacted Brief filed by Respondent Federal Trade Commission. Service date: 08/29/2014 by email to Attorneys for Petitioner:  
73 pg, 189.25 KB

08/29/2014  Sealed Brief filed by Respondent Federal Trade Commission. Service date: 08/29/2014 by U.S. mail to Attorneys for Petitioner.


09/02/2014  Added Attorney Judith Vale for Amicus Curiae State of New York, in case 14-11363.

09/02/2014  *MOTION to appear pro hac vice filed by Attorney Judith Vale for Amicus Curiae State of New York. [7261317-1]*

09/03/2014   APPEARANCE of Counsel Form filed by Daniel E. Gustafson for The American Antitrust Institute (AAI) (ECF: Daniel Gustafson)  
1 pg, 26.71 KB

09/03/2014   ORDER: The motion to appear pro hac vice filed by Judith Vale is GRANTED. (CK) [7261317-2]  
1 pg, 11.96 KB

09/03/2014  Added Attorney Daniel E. Gustafson for Amicus Curiae American Antitrust Institute, in case 14-11363.

09/04/2014   **ORDER: The motion for extension of time to file the petitioner's reply brief is GRANTED. The brief is due September 29, 2014, with the supplemental appendix, if any, due no later than seven days from the filing date of the brief. [7259060-2] (FMH)**

09/04/2014   APPEARANCE of Counsel Form filed by Judith Naomi Vale for State of New York. (ECF: Judith Vale)  
1 pg, 425.75 KB

09/04/2014  E-filed Appearance of Counsel processed for Attorney Judith Naomi Vale for Amicus Curiae State of New York in 14-11363.

09/04/2014   Supplemental Appendix [1 VOLUMES] filed by Respondent Federal Trade Commission. (ECF: Theodore Metzler)  
120 pg, 1.75 MB

09/05/2014   \*\*\*Returned Unfiled\*\*\* *MOTION to file amicus brief pursuant to FRAP 29(a) filed by Daniel E. Gustafson for Amicus Curiae the American Antitrust Institute. [7263771-1]*--[Edited 09/08/2014 by JC] (ECF: Daniel Gustafson)  
39 pg, 103.15 KB

09/05/2014   APPEARANCE of Counsel Form filed by Jonathan E. Nuechterlein for FTC (ECF: Jonathan Nuechterlein)  
1 pg, 55.93 KB

09/05/2014   Amicus Brief as of right or by consent of the parties filed by Judith Vale, State of New York and Amici States. (ECF: Judith Vale)  
50 pg, 277.75 KB

09/05/2014   Amicus Brief filed by Amicus Curiae American Antitrust Institute. Service date: 09/05/2014 by email to Attorneys for Petitioner and Respondent.  
39 pg, 103.31 KB

09/08/2014  Added Attorney(s) Jonathan E. Nuechterlein for party(s) Respondent Federal Trade Commission, in case 14-11363.

09/08/2014   RETURNED UNFILED: The motion for leave to file amicus brief received from Attorney Daniel E. Gustafson for Amicus Curiae American Antitrust Institute is returned unfiled because it is unnecessary. The amicus brief will be filed.  
1 pg, 11.99 KB

09/08/2014  Received paper copies of EBrief filed by Amicus Curiae State of New York, et al.,.

09/08/2014  Received paper copies of EBrief filed by Amicus Curiae American Antitrust Institute.

09/10/2014   **ORDER: Respondent's "Unopposed Motion to File Its Brief and Supplemental Appendix Under Seal" is GRANTED. [7259051-2] (WHP)**  
2 pg, 129.13 KB

09/26/2014  The Court has determined that oral argument will be necessary in this case. Please forward 3 additional copies of the 4 volumes of Appendix (redacted and sealed copies) filed 7/7/14 by Attorney John Alan Truitt for Petitioner McWane, Inc., to the Clerk's Office, Attention: Jenifer Tubbs. Your prompt attention to this matter is appreciated.

09/26/2014  The Court has determined that oral argument will be necessary in this case. Please forward 3 additional copies of the 2 volumes of Supplemental Appendix filed 9/4/14 by Attorney Theodore Paul Metzler, Jr. for Respondent Federal Trade Commission to the Clerk's Office, Attention: Jenifer Tubbs. Your prompt attention to this matter is appreciated.

09/29/2014   *TIME SENSITIVE MOTION to seal filed by McWane, Inc., Motion is Unopposed. [7283575-1]* (ECF: John Truitt)  
11 pg, 217.78 KB

09/29/2014   Reply Brief filed by Petitioner McWane, Inc., (ECF: John Truitt)  
36 pg, 499.62 KB

09/30/2014  Additional (3) Three copies of Appendix received from John Alan Truitt for McWane, Inc., and forwarded to the record room.

10/01/2014  Additional (3) Three sets copies of Appendix received from Theodore Paul Metzler, Jr. for Federal Trade Commission and Jonathan E. Nuechterlein for Federal Trade Commission and forwarded to the record room.

10/01/2014   Assigned to tentative calendar number 9 in Atlanta during the week of January 12, 2015. Counsel must be logged into CM/ECF in order to view the attached calendar.  
0 pg, 0 KB

10/01/2014   Supplemental Appendix filed [1 VOLUME] by Petitioner McWane, Inc.,--[Edited 10/23/2014 by JC] (ECF: John Truitt)  
21 pg, 4.19 MB





















10/10/2014   **ORDER: Petitioner's "Unopposed Time-Sentitive [sic] Motion for Leave to File Reply Brief and Supplemental Appendix Under Seal" is GRANTED. [7283575-2] (RSR)**  
2 pg, 140.96 KB

10/21/2014  The Court has determined that oral argument will be necessary in this case. Please forward 3 additional copies of the 1 volumes of Supplemental Appendix (including SEALED copies) filed 9/29/14 by Attorney John Alan Truitt for Petitioner McWane, Inc., to the Clerk's Office, Attention: Jenifer Tubbs. Your prompt attention to this matter is appreciated.

10/23/2014  Additional (3) and (3 Under Seal) copies of Appendix received from Joseph Allen Ostoyich for McWane, Inc., and John Alan Truitt for McWane, Inc., and forwarded to the record room.

11/06/2014   Calendar issued as to cases to be orally argued the week of 01/12/2015 in Atlanta, Georgia. Counsel are directed to electronically acknowledge receipt of this calendar by docketing the Calendar Receipt Acknowledged event in ECF. Counsel must be logged into CM/ECF in order to view the attached calendar.  
1 pg, 15.15 KB

11/06/2014  Attorney Theodore Paul Metzler, Jr. for Respondent Federal Trade Commission hereby acknowledges receipt of a copy of the printed calendar for 01/16/2015. Jonathan E. Nuechterlein 202-326-2868 will present argument. (ECF: Theodore Metzler)

11/06/2014		Attorney Joseph Allen Ostoyich for Petitioner McWane, Inc., hereby acknowledges receipt of a copy of the printed calendar for 01/16/2015. Joe Ostoyich - 202 639 7905 will present argument. (ECF: Joseph Ostoyich)
11/06/2014		Attorney Erik Koons for Petitioner McWane, Inc., hereby acknowledges receipt of a copy of the printed calendar for 01/16/2015. Joe Ostoyich: 202 639 7905 will present argument. (ECF: Erik Koons)
11/06/2014		Attorney William Connor Lavery for Petitioner McWane, Inc., hereby acknowledges receipt of a copy of the printed calendar for 01/16/2015. Joseph Ostoyich - (202) 639-7905 will present argument. (ECF: William Lavery)
11/07/2014		Oral argument scheduled. Argument Date: Friday, 01/16/2015 Argument Location: Atlanta.
01/16/2015		Oral argument held. Oral Argument participants were Joseph Allen Ostoyich for Petitioner McWane, Inc., and Jonathan E. Nuechterlein for Respondent Federal Trade Commission.
01/21/2015	 1 pg, 192.02 KB	Oral argument CD requested by Robert Braun, Cohen Milstein Sellers & Toll, PLLC. They sent a FedEx env. for the return.
01/22/2015		Oral Argument CD sent to Robert Braun, Cohen Milstein Sellers & Toll, PLLC, in FedEx envelope he provided.--[Edited 01/22/2015 by TLH]
01/23/2015	 1 pg, 42.78 KB	Oral argument CD requested by William Connor Lavery for McWane, Inc.,.
01/26/2015		Oral Argument CD sent to Pouria Sadat, Baker Botts LLP.
02/03/2015	 46 pg, 202.49 KB	Supplemental Authority filed by Respondent Federal Trade Commission. (ECF: Theodore Metzler)
02/12/2015	 2 pg, 87.69 KB	Response to Supplemental Authority (28J) filed by Petitioner McWane, Inc.,. (ECF: Joseph Ostoyich)
02/17/2015	 28 pg, 232.36 KB	Appellant's Supplemental Brief filed by Petitioner McWane, Inc.,. (ECF: Thomas Thagard)
02/17/2015	 13 pg, 79.54 KB	Appellee's Supplemental Brief filed by Respondent Federal Trade Commission. (ECF: Theodore Metzler)
04/15/2015	 56 pg, 184.83 KB	Opinion issued by court as to Petitioner McWane, Inc.,. Decision: Affirmed. Opinion type: Published. Opinion method: Signed.
04/15/2015	 1 pg, 8.33 KB	Judgment entered as to Petitioner McWane, Inc.,.
05/29/2015	 82 pg, 350.27 KB	Petition for rehearing en banc (with panel rehearing) filed by Petitioner McWane, Inc.,. (ECF: John Truitt)
08/06/2015	 2 pg, 175.26 KB	ORDER: The Petition(s) for Rehearing are DENIED and no Judge in regular active service on the Court having requested that the Court be polled, the Petition(s) for Rehearing En Banc filed by Petitioner McWane, Inc., are DENIED. [7542245-1]
08/14/2015	 2 pg, 451.33 KB	Mandate issued as to Petitioner McWane, Inc.,.
11/30/2015	 1 pg, 65.27 KB	Motion to file Certiorari under seal is GRANTED by US Supreme Court.
11/30/2015	 1 pg, 55.41 KB	Notice of Writ of Certiorari filed as to Petitioner McWane, Inc.,. SC# 15-706.
01/04/2016		Checked status of ceritorari 15-706 filed as to Petitioner McWane, Inc., - Pending.



Clear All

- Documents and Docket Summary
- Documents Only

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