

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

IN RE: READY-MIXED CONCRETE)	
LITIGATION)	
_____)	Master Docket No.
)	1:05-cv-00979-SEB-JMS
THIS DOCUMENT RELATES TO:)	
ALL ACTIONS)	

**AMERICAN CONCRETE’S RESPONSES TO PLAINTIFFS’
FIRST SET OF INTERROGATORIES TO ALL DEFENDANTS**

American Concrete Co., Inc. (“American Concrete”), by its attorneys, responds and objects to Plaintiffs’ request for interrogatories as follows:

GENERAL OBJECTIONS

(a) **Attorney-client Privilege.** American Concrete objects to each interrogatory to the extent that it seeks to discover information that is protected by the attorney-client privilege, including all documents and other tangible things which constitute or relate to confidential communications between or among American Concrete and its attorneys.

(b) **Work Product Doctrine.** American Concrete objects to each interrogatory to the extent that it seeks to discover information that falls within the work product doctrine, including the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of American Concrete concerning this litigation.

(c) **Trial Preparation Materials.** American Concrete objects to each interrogatory to the extent that it seeks to discover information that was acquired or developed in anticipation

of litigation, including those materials protected from discovery pursuant to Fed. R. Civ. P. 26(b)(3).

(d) **Temporal Scope and Irrelevancy.** American Concrete objects to the Interrogatories to the extent that Plaintiffs seek information and documents outside of the July 1, 1999 – May 31, 2005 time period allowed by the Court’s August 18, 2005 Order. Interrogatories for information before or after that time period are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs’ overbroad temporal scope is overly burdensome and inefficient. The burden or expense of the discovery outweighs its likely benefit, if any, taking into account the needs of the case, American Concrete’s limited resources and the importance of the proposed discovery in resolving the issues.

(e) **Information Not Presently Known By American Concrete.** American Concrete objects to Plaintiffs serving numerous interrogatories regarding factual material that, by its very nature, does not directly involve American Concrete and about which no representative of American Concrete has personal knowledge. American Concrete objects to each interrogatory to the extent that it seeks to impose an obligation upon American Concrete to gather information that is not in its possession, custody or control or that is equally available to Plaintiffs.

(f) **Other Objections.** In providing this response, American Concrete does not waive or intend to waive:

- (1) Objections as to competency, relevancy, materiality or admissibility;
- (2) Rights to object on any grounds to the use of any responses herein in any subsequent proceedings, including the trial of this or any other action;
- (3) Objections as to vagueness and ambiguity; and

- (4) Rights to object further to this or any other further discovery request in this proceeding.

Subject to the foregoing terms, conditions and objections and reserving the right to supplement or amend its responses, American Concrete responds to “Plaintiffs’ First Set Of Interrogatories To All Defendants” as follows:

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: For each of your employees who has or had any responsibility for recommending, reviewing, setting or approving prices, price increase announcements, territories, markets, bids or quotes for the sale of Ready-Mixed Concrete, identify:

- a. the full name and last known business and home address;
- b. date of birth and social security number;
- c. title or position and period of service in each such position;
- d. immediate supervisor in each position;
- e. business and home telephone numbers of each voice, facsimile or cellular telephone assigned to or used by such person and the period during which such numbers were assigned to or used by that person; and
- f. business and home electronic mail identifiers and the period during which such identifiers were assigned to and used by that person.

ANSWER: American Concrete objects to Interrogatory No. 1 to the extent it seeks confidential and personal information of American Concrete’s current and former employees by seeking “date of birth and social security number” information. Such confidential information has no bearing or relevance in the present litigation and Plaintiffs’ request is not reasonably calculated to lead to the discovery of admissible evidence and will annoy, embarrass or oppress non-parties. American Concrete further objects to this Interrogatory as vague and ambiguous as it seeks the identity of any person with “any responsibility” in the identified functions. American Concrete further states that, with the sale of its assets in November 2005, it has only one

continuing employee/owner. Thus, most of the individuals identified below are former employees so current information is not known to American Concrete.

Subject to and without waiving any of its objections, American Concrete identifies the following employees and former employers who had management and/or sales responsibility that included pricing and price quotes during the relevant time period:

- (1) (a) Jason R. Mann
- | | |
|--------------------------|----------------------|
| <u>Business Address:</u> | <u>Home Address:</u> |
| 444 West Troy Avenue | 956 Breaside Lane |
| Indianapolis, IN 46225 | Greenwood, IN 46143 |
- (b) See objections above.
- (c) Dispatch/Driver/Sales - 1993 – 1999; April 2001 – March 17, 2002
Owner/President – March 17, 2002 – present
- (d) When in sales/driver, supervisor was Dennis Mann.
- (e) main business number: (317) 248-2525
(317) 760-6150
fax number: (317) 243-0552
cell number: (317) 371-1734 (1999 - early 2001)
(317) 538-4009 (Apr. 2001 - present)
(317) 710-3005 (Mar. 2002 – Feb. 2003)
home number: (317) 882-0300
- (f) jrmann@pouramerican.com
- (2) (a) Dennis G. Mann (Deceased)
- (b) See objections above.
- (c) Owner/President – July 1991 – March 17, 2002
- (d) Not applicable
- (e) main business numbers: (317) 248-2525
(317) 786-7737
fax number: (317) 243-0552
cell number: (317) 710-3005
home number: (317) 984-6266
- (f) None
- (3) (a) Larry W. Deaton
- | | |
|--------------------------|-----------------------|
| <u>Business Address:</u> | <u>Home Address</u> |
| 845 West Troy Avenue | 14400 Cumberland Road |
| Indianapolis, IN 46225 | Noblesville, IN 46060 |
- (b) See objections above.
- (c) Sales/Estimates – Apr. 1984 – Jul. 2001 & Mar. 2003 – Nov. 2005
- (d) Dennis Mann until March 17, 2002; then Jason Mann.

- (e) main business numbers: (317) 248-2525 (until July 2001; 2003)
(317) 780-6150 (2003/2004 – Nov. 2005)
fax number: (317) 243-0552
cell number: (317) 716-4447
home number: (317) 770-8043
(f) ldeaton@pouramerican.com
- (4) (a) R. Duane Hardwick
Business Address: 845 West Troy Avenue
Indianapolis, IN 46225
Home Address: 2309 Hawthorn
Noblesville, IN 46060
(b) See objections above.
(c) Sales Manager/Estimates/QAQC (May 2002 - Nov. 2005)
(d) Jason Mann
(e) main business numbers: (317) 248-2525 (May 2002 –2003/2004)
(317) 780-6150 (2004 – Nov. 2005)
fax number: (317) 243-0552
cell number: (317) 716-8254
home number: (812) 323-9505
(f) dhardwick@pouramerican.com
- (5) (a) John W. Ray
Business Address: 845 West Troy Avenue
Indianapolis, IN 46225
Home Address: 7086 Summer Oak Drive
Noblesville, IN 46060
(b) See objections above.
(c) Sales/Estimates (May 2002 - Nov. 2005)
(d) Jason Mann
(e) main business numbers: (317) 248-2525 (May 2002 –2003/2004)
(317) 780-6150 (2004 – Oct. 2005)
fax number: (317) 243-0552
cell number: (317) 716-8252
home number: (317) 774-9734
(f) jray@pouramerican.com
- (6) (a) Ryan W. Enlow
Business Address: 2605 Kentucky Avenue
Indianapolis, IN 46226
Home Address: 1450 North Fenton Avenue
Indianapolis, IN 46219
(b) See objections above.
(c) Sales Management (Aug. 2002 - Dec. 2003)
(d) Jason Mann
(e) main business number: (317) 248-2525
fax number: (317) 243-0552
cell number: (317) 716-4447
home number: (317) 897-2670
(f) None

(7) (a) Jamison B. Mann

Business Address:

845 West Troy Avenue
Indianapolis, IN 46225

Home Address:

801 East Jefferson Street
Franklin, IN 46131

(b) See objections above.

(c) Pre July 2000 - some employment as driver, etc.; July 2000 - Summer 2003 - Plant Manager/Driver/Dispatch/Misc.; Summer - Fall 2003 - Sales Manager/Misc.

(d) Dennis Mann until March 17, 2002; then Jason Mann

(e) main business number: (317) 248-2525

fax number: (317) 243-0552

cell number: (317) 442-1667 (1999)

(317) 281-3648 (2001)

(317) 716-1609 (2003, 2004)

home number: (317) 791-6815

(f) None

INTERROGATORY NO. 2: For each of your employees who served as a secretary, personal or administrative assistant or who performed secretarial, personal or administrative assistant services for each person identified in response to Interrogatory No. 1, identify:

- a. the full name and last known business and home address;
- b. date of birth and social security number;
- c. title or position and period of service in each such position;
- d. person for whom such services were performed and the immediate supervisor if different;
- e. business and home telephone numbers of each voice, facsimile or cellular telephone assigned to or used by such person and the period during which such numbers were assigned to or used by that person; and
- f. business and home electronic mail identifiers and the period during which such identifiers were assigned to and used by that person.

ANSWER: American Concrete objects to Interrogatory No. 2 to the extent it seeks confidential and personal information of American Concrete's former employees by seeking "date of birth and social security number" information. Such confidential information has no bearing or relevance in the present litigation and Plaintiffs' request is not reasonably calculated to lead to the discovery of admissible evidence and will annoy, embarrass or oppress non-parties. American Concrete further objects to this Interrogatory as vague and ambiguous as it requests information about any person "who performed secretarial, personal or administrative assistant

services.” Because American Concrete operated as a small family-owned company, it did not have secretaries, personal or administrative assistants. American Concrete further states that, with the sale of its assets in November 2005, the individuals identified below are former employees so current information is not known to American Concrete.

Subject to and without waiving any of its objections, American Concrete identifies the following former employees with job responsibilities that included administrative and/or secretarial functions during the relevant time period:

(1) (a) Kelly C. Pflum

Business Address:

845 West Troy Avenue
Indianapolis, IN 46225

Home Address:

13197 Zinfandel Place
Noblesville, IN 46060

(b) See objections above.

(c) Controller (Nov. 2000 - Nov. 2005)

(d) Assisted President of company; supervised A/R clerks

(e) main business numbers: (317) 243-0248
(317) 248-2525

fax number: (317) 243-0552

cell number: (317) 716-3317

home number: (317) 578-7577

(f) kpflum@pouramerican.com

(2) (a) Angela J. Johnson

Business Address:

845 West Troy Avenue
Indianapolis, IN 46225

Home Address:

110 South West Street
Bargersville, IN 46106

(b) See objections above.

(c) A/R Clerk/Customer Relations/Dispatch (2002 - Nov. 2005)
Office Manager (Oct. 1992 - Mar. 1998)

(d) Assisted president of company

Immediate supervisor: Kelly Pflum, Controller

(e) main business numbers: (317) 248-2525 (2002 – 2003/2004)
(317) 780-6150 (2004 - Nov. 2005)

fax number: (317) 243-0552

cell number: (317) 716-7440

home number: (317) 422-8896

(f) ajohnson@pouramerican.com

- (3) (a) Marcia A. Milward
Business Address: Home Address:
2605 Kentucky Avenue 14747 White Tail Run
Indianapolis, IN 46221 Noblesville, IN 46060
- (b) See objections above.
(c) Invoicing/A/R Clerk (Mar. 2000 - mid 2003)
(d) Assisted president of company
Immediate supervisor: Kelly Pflum, Controller
(e) main business number: (317) 248-2525
fax number: (317) 243-0552
cell number: N/A
home number: (317) 774-8147
(f) None

INTERROGATORY NO. 3: Identify each employee who testified for, gave an oral statement to, or produced any documents, written statements or data to any employee, agent, agency, department, or committee of the United States, any State, or the European Commission, including any testimony before a grand jury, relating to Ready-Mixed Concrete and as to each person state:

- a. the date testimony or other oral statement was given or documents produced;
- b. the employee, agent, agency, department or committee receiving the testimony, oral statement or documents; and
- c. a description of the testimony, oral statement, or documents.

ANSWER: American Concrete objects to Interrogatory No. 3 to the extent it seeks to evade the restrictions governing secrecy of Grand Jury proceedings. American Concrete further objects to the extent it seeks information beyond American Concrete's knowledge, custody and control because the U.S. Government (FBI/DOJ) seized countless documents from American Concrete on May 25, 2004, without permitting American Concrete to log or copy those documents. These seized documents have not been returned to American Concrete and American Concrete does not know exactly what information or documents were seized and remain in the Government's hands, outside of American Concrete's custody or control. American Concrete further states that after this initial seizure of documents, the FBI/DOJ asked American Concrete to compile and produce other assorted documents.

Subject to and without waiving any of its objections, and to the best of its knowledge and information, American Concrete identifies employees and former employees as follows:

1. Jason R. Mann:
Interviewed by FBI investigators on different occasions (March 21, 2004; March 29, 2004, and August 1, 2006) and gave oral statements/responses during those meetings. Mr. Mann answered questions about American Concrete's operations and the concrete industry in general.
2. Kelly Pflum
Compiled documents in response to the FBI's additional requests and produced these documents to the FBI in Summer 2004. American Concrete believes that Mr. Pflum never testified or gave a statement to any employee, agent, agency, department, or committee of the U.S. Government, any State government, or the European Commission.

INTERROGATORY NO. 4: Identify each employee who served as your designated representative in any trade associations relating to Ready-Mixed Concrete and state with respect to each:

- a. the trade associations to which each person served as your designated representative;
- b. the years during which each person served as your designated representative in each trade association;
- c. all offices, chairs or committee positions held in each of the trade associations; and
- d. the years during which those offices, chairs or committee positions were held.

To the extent you did not have the same designated representative(s) for a given time period, please explain how you determined which employee or employees would represent you at each trade association meeting and how that practice differed, if at all, between trade associations.

ANSWER: Subject to and without waiving any of its objections, American Concrete was a member of the following trade associations: Associated Builders and Contractors, Builders Association of Greater Indianapolis, Concrete Foundations Association and Indiana Ready Mix Concrete Association (IRMCA). American Concrete did not designate any given representatives to attend meetings to the extent meetings were held and did not regularly attend trade association meetings during the relevant period of time. When American Concrete did

attend meetings, it was represented by its President (Dennis Mann until March 17, 2002; Jason Mann after March 17, 2002). A second American Concrete representative may have attended some meetings. The exception is a March 2004 meeting which John Ray attended alone. Additionally, American Concrete periodically sent employees to short courses or other seminars offered by trade associations. To the best of American Concrete's knowledge, no American Concrete representative ever held any offices, chairs or committee positions in any trade association.

INTERROGATORY NO. 5: Identify the address, main telephone number and person in charge of each office, plant, operating unit, warehouse or other facility that you use or used in connection with your Ready-Mixed Concrete business, the period it was used and the nature of the use at those premises.

ANSWER: American Concrete objects to Interrogatory No. 5 as vague and ambiguous to the extent it seeks information regarding "the nature of the use at those premises." It also is unclear what is meant by "operating unit." American Concrete further objects to the extent this Interrogatory is overbroad and seeks information regarding facilities or offices that are owned by American Concrete's suppliers and/or customers but that, under Plaintiffs' vague request, may have been "used" by American Concrete.

Subject to and without waiving its objections, American Concrete provides the following information regarding the plants and offices it owned and operated before it sold its assets to Spurlino Materials in November 2005:

2605 Kentucky Avenue P.O. Box 0007 Indianapolis, IN 46226	Phone: (317) 248-2525	Ready-Mixed Production Plant
845 West Troy Avenue Indianapolis, IN 46225	Phone: (317) 780-6150	Administrative offices; accounting; sales
15215 River Avenue Noblesville, IN 46060	Phone: (317) 773-7833	Ready-Mixed Production Plant

11528 North U.S. 231 Linden, IN 47955	Phone: (765) 339-4055	Ready-Mixed Production Plant
--	--------------------------	---------------------------------

INTERROGATORY NO. 6: Identify any and all classes, types or categories of Ready-Mixed Concrete (including the trade names, brand names or trademarks) produced, marketed, distributed or sold by you.

ANSWER: The price sheets previously produced on or about October 17, 2006 (AM 200001 - AM 200009) identify the general categories and types of mixes produced by American Concrete. The specific mixes and products sold varied from customer-to-customer and job-to-job and depended on the customers' specifications. For a detailed listing of mixes or products distributed or sold by it, American Concrete refers Plaintiffs to the approximately 52 boxes of tickets and invoices produced on or about March 22, 2006 and October 17, 2006 in response to Plaintiffs' requests for documents, as well as the electronic data American Concrete produced from its Jonel database (covering mid 2004 - November 2005). American Concrete incorporates by reference its response to Interrogatory No. 4. The burden of deriving or ascertaining the answer to this Interrogatory from such documents and data is substantially the same for Plaintiffs as for American Concrete. To the extent the interrogatory seeks additional information, American Concrete objects to Interrogatory No. 6 as overly broad and unduly burdensome.

INTERROGATORY NO. 7: Identify any outside or independent consultants you hired to study or evaluate Ready-Mixed Concrete or the Ready-Mixed Concrete industry, including a description of the study or evaluation and the time frame the study or evaluation was conducted.

ANSWER: American Concrete objects to Interrogatory No. 7 to the extent it seeks information regarding any consultant retained or specially employed by American Concrete in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial. See General Objections (b) and (c) and Rule 26(b)(4)(B) of the Federal Rules of Civil

Procedure. To the extent the Interrogatory seeks information regarding experts retained or employed by American Concrete to provide expert testimony, such disclosures will be made at the time and in the manner specified in the Case Management Order.

Subject to and without waiving its objections (including not answering as to consultants or experts hired for purposes of the litigation), American Concrete did not hire or retain any consultants.

INTERROGATORY NO. 8: Identify any fines, plea agreements or other agreements you, or any of your employees, have with any governmental agency, committee or department of the United States, any state, the European Commission, or any foreign governmental body relating to Ready-Mixed Concrete.

ANSWER: American Concrete objects to Interrogatory No. 8 as vague, ambiguous, overbroad and unduly burdensome as it seeks information regarding any fines or agreements, which could include even traffic tickets received while delivering concrete and governmental permits, licenses and certificates of any kind. The request for such information is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving its objections, American Concrete states that neither it, nor any of its employees, paid any fine or entered into any plea agreement regarding the alleged price-fixing conspiracy. In August 2006, Jason Mann signed an immunity agreement with the U.S. Government/DOJ agreeing that he will voluntarily provide information and answer questions regarding the alleged price-fixing conspiracy. American Concrete has no interaction with the European Commission or any foreign governmental body.

INTERROGATORY NO. 9: Identify all joint ventures or other cooperative business relationships between you and any other defendant or any other manufacturer of Ready-Mixed Concrete.

ANSWER: American Concrete objects to the reference to “other cooperative business relationships” as vague and ambiguous. Subject to and without waiving any of its objections, American Concrete responds that it has no such relationships.

INTERROGATORY NO. 10: Identify each actual or proposed understanding or agreement between any manufacturers of Ready-Mixed Concrete relating to prices, pricing, production or inventory levels of Ready-Mixed Concrete and state as to each such actual or proposed understanding or agreement:

- a. the identity of the participants and all persons with knowledge thereof;
- b. when such understanding or agreement was entered into;
- c. where such understanding or agreement was entered into;
- d. the terms of such understanding or agreement; and
- e. when, how and which of your officers, directors or employees discovered the existence of such understanding or agreement.

ANSWER: American Concrete objects to Request No. 10 as vague to the extent it requests information about a “proposed understanding.” Subject to and without waiving any of its objections, American Concrete states it was not party to, and has no knowledge of, any understanding or agreement between any ready-mixed concrete manufacturers relating to prices or pricing of ready-mixed concrete. See also General Objection (f) above.

American Concrete further states that prior to 2002, American Concrete began an arrangement with Prairie Materials where American would sell Prairie ready-mixed concrete (and vice versa) in the event either company’s plant broke and it otherwise would have been unable to meet its customers’ orders. This arrangement was between Dennis Mann (deceased) and Gary Matney. Jason Mann learned of this arrangement from his father. Other employees knew of this only through the processing of invoices and other business operations.

American Concrete, beginning in approximately 2003, had a similar arrangement with Beaver Materials where American Concrete would sell Beaver ready-mixed concrete in the event

that Beaver's plant broke and American Concrete's customers' orders for the day already had been met. Jason Mann had knowledge of this arrangement.

INTERROGATORY NO. 11: Identify and describe any meetings or communications between you and any employee or any other defendant or manufacturer of Ready-Mixed Concrete including those relating to price, pricing, price increase announcements, terms or conditions of sales, margins or market share, discounts, production levels, inventory, customers, auctions, reverse auctions, bidding events, or sales, and for each such meeting or communications:

- a. provide the date and location of the meeting or communication;
- b. identify the person(s) who initiated, called, organized, attended or participated in the meeting or communication;
- c. describe the subject matter discussed and any information you provided or received;
- d. describe every action taken by you as a result of the meeting or communication; and
- e. identify all persons with knowledge relating to the meeting or communication.

ANSWER: American Concrete objects to the request to identify "meetings or communications between [it] and any employee" as vague and unclear without any reference to the employer of that "employee." To the extent that the Interrogatory seeks information regarding meetings or communications between American Concrete and its own employees, American Concrete objects to Interrogatory No. 11 as overbroad and unduly burdensome. Such communications and meetings regarding prices, bids, quotes or sales occurred numerous times each business day. On any given day, the President, controller, accounts receivable/payable clerks, sales personnel, etc. (and in any combination) discussed customer accounts, bids, quotes, sales, and other aspects of American Concrete's ready-mixed concrete sales. It would be infeasible to identify and list each such interaction between or among American Concrete's employees on each of the topics. The request for such information is not reasonably calculated to lead to the discovery of relevant and admissible evidence.

Subject to and without waiving its objections, American Concrete incorporates its response to Interrogatory No. 4 with respect to trade association meetings. American Concrete further identifies the following communications it had with other Defendants or manufacturers:

- (1) (a) Spring 2002; restaurant on North side of Indianapolis
(b) Tim Kuebler called to set it up. Tim Kuebler, Butch Nuckols, Jason Mann and Mike Curley (Curley Brothers Brick & Supply) attended.
(c) Builder's expressed interest in buying American Concrete.
(d) None.
(e) Jason Mann, Mike Curley (Curley Brothers Brick & Supply), Tim Kuebler, Butch Nuckols.

- (2) (a) August 2002
(b) Nuckols telephoned Jason Mann and requested a meeting to discuss credit matters.
(c) None - no meeting was held.
(d) None.
(e) Jason Mann and Butch Nuckols.

- (3) (a) On or about October 31, 2003.
(b) Unknown.
(c) American Concrete received a copy of IMI's winter charge announcement.
(d) None.
(e) Jason Mann; the unknown person who distributed the announcement.

- (4) (a) Fall 2003; Denny's Restaurant.
(b) Scott Hughey of Carmel Concrete requested a meeting with Jason Mann.
(c) Hughey complained about American Concrete taking business away from Carmel Concrete. Hughey threatened to lure away one of American Concrete's customers. Jason Mann terminated the conversation.
(d) Mann further lowered the customer's price.
(e) Scott Hughey, Jason Mann and Keith Vanevenhoven.

- (5) (a) November 2003; Sahn's Restaurant off 116th Street and Allisonville Road.
(b) Chris Beaver requested the meeting to discuss alternative software systems being considered by Beaver and American Concrete. Jason Mann and Chris Beaver attended the meeting. (Jason Mann and Chris Beaver met a few of times to discuss software systems. American Concrete cannot recall exact dates.)
(c) (i) Available dispatching software, (ii) Increased costs of supplying concrete, (iii) Rumors about changes in costs of materials.
(d) None.
(e) Chris Beaver and Jason Mann.

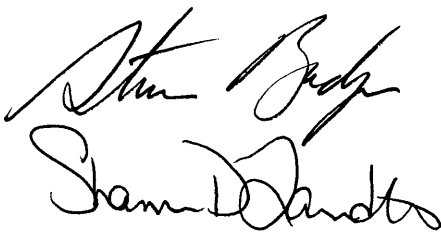
- (6) (a) November 2003; a restaurant (location not recalled).
(b) Price Irving requested a meeting with Jason Mann.

- (c) IMI's interest in purchasing American Concrete.
 - (d) None.
 - (e) Price Irving and Jason Mann.
- (7) (a) Late 2003 or early 2004; Kelly's Pub.
- (b) Chris Beaver requested meeting with Jason Mann.
 - (c) Discussed software systems because both Beaver and American Concrete were looking to replace their systems. Beaver mentioned that one of American Concrete's past bids was very low in his opinion.
 - (d) None.
 - (e) Chris Beaver and Jason Mann.
- (8) (a) Spring 2003 or 2004; Ice House.
- (b) Butch Nuckols called and asked Jason Mann to meet him and John Blatzheim at the restaurant.
 - (c) Nuckols and Blatzheim tried to sell Mann in general on the idea that everyone should tighten their belts and not discount like in the past. (No specific numbers or amounts were mentioned.) Mann laughed in their faces because he believed Builders was setting him up to take business away from American.
 - (d) None.
 - (e) Butch Nuckols, John Blatzheim, Jason Mann.
- (9) (a) On or about March 1, 2004.
- (b) Rick Beaver gave John Ray (they lived in the same sub-division) a copy of Beaver's price list and asked Ray to deliver it to Jason Mann.
 - (c) American Concrete received Beaver's price list.
 - (d) None.
 - (e) John Ray, Rick Beaver, Jason Mann.
- (10) (a) March or April 2004; Marsh Store at 96th Street and Lantern Road.
- (b) Initiated by Chris Beaver via phone call. Attendees were Allyn Beaver, Chris Beaver and Jason Mann.
 - (c) Beavers asked if American Concrete would sell ready-mixed concrete to Beaver in Lafayette, Indiana so Beaver could deliver it to CP Morgan. Mann said he would sell directly to CP Morgan.
 - (d) Mann met with CP Morgan, quoted a price, but CP Morgan declined American Concrete's bid.
 - (e) Chris Beaver, Allyn Beaver, Jason Mann, Sam Killan, Duane Hardwick.
- (11) (a) About Summer 2002.
- (b) Fax received from IMI Sales Department.
 - (c) Fax consisted of a copy of American Concrete's bid proposal for a project in Lebanon or Zionsville with a handwritten statement to the effect, "Buddy's Carpet is having a similar sale."
 - (d) Jason Mann gave this fax to the FBI in March 2004.
 - (e) Jason Mann; the unknown person who sent the fax.

INTERROGATORY NO. 12: Identify the source, by name and by bates number, of each document produced to plaintiffs in this litigation.

ANSWER: American Concrete objects to Interrogatory No. 12 as vague and ambiguous as to its request for information about each document's "source." American Concrete also objects because it would be unduly burdensome for American Concrete to review and categorize each document produced in the 80 boxes made available to Plaintiffs. The documents were all maintained in American Concrete's records and speak for themselves.

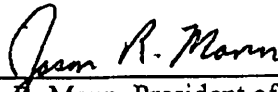
As to objections:

The image shows two handwritten signatures in black ink. The first signature is "Steven M. Badger" and the second is "Shannon D. Landreth". Both signatures are written in a cursive, flowing style.

Steven M. Badger
Shannon D. Landreth
McTurnan & Turner
2400 Market Tower
10 West Market Street
Indianapolis, IN 46204
(317) 464-8181
(317) 464-8131 – Facsimile
sbadger@mtlitigation.com
slandreth@mtlitigation.com

VERIFICATION

Jason R. Mann, being first duly sworn under oath, deposes and says that the information contained in "American Concrete's Responses to Plaintiffs' First Set Of Interrogatories To All Defendants" has been reviewed by him and states that these responses are true to the best of his knowledge and belief, and that, therefore, the responses are verified on behalf of American Concrete Co., Inc. in this litigation.



Jason R. Mann, President of American Concrete
Co., Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 28th day of February 2007, a copy of the foregoing “American Concrete’s Responses To Plaintiffs’ First Set Of Interrogatories To All Defendants” was sent electronically to all counsel of record, in accordance with the Case Management Plan, including but not limited to:

Irwin B. Levin
Richard E. Shevitz
Scott D. Gilchrist
Eric S. Pavlack
COHEN & MALAD
Cohen & Malad, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204

Stephen D. Susman
Barry C. Barnett
Jonathan Bridges
SUSMAN GODFREY LLP
901 Main Street
Suite 4100
Dallas, TX 75202-3775

G. Daniel Kelley, Jr.
Thomas E. Mixdorf
Edward P. Steegmann
Anthony P. Aaron
ICE MILLER
One American Square
Box 82001
Indianapolis, IN 46282-0002

Robert K. Stanley
James H. Ham, III
Kathy L. Osborn
BAKER & DANIELS
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204-1782

Jay P. Kennedy
KROGER GARDIS & REGAS
111 Monument Circle
Indianapolis, IN 46204-5125

Charles R. Sheeks
Sheeks & Nixon, LLP
6350 North Shadeland
Suite 1
Indianapolis, IN 46220

George W. Hopper
Jason R. Burke
HOPPER & BLACKWELL
111 Monument Circle
Suite 452
Indianapolis, IN 46204-5170

Judy Woods
Bryan H. Babb
BOSE MCKINNEY & EVANS, LLP
135 N. Pennsylvania St.
Suite 2700
Indianapolis, IN 46204

Jonathan A. Epstein
Michael W. Boomgarden
Eric L. Schleef
Frank J. Vondrak
UNITED STATES DEPARTMENT OF
JUSTICE
Antitrust Division
209 South LaSalle Street
Suite 600
Chicago, IL 60604

Chris C. Gair
Lara E. FitzSimmons
JENNER & BLOCK
One IBM Plaza
Chicago, IL 60611-7603



An Attorney for American Concrete Co., Inc.