

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

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

**SETTLEMENT AGREEMENT WITH BUILDER’S CONCRETE & SUPPLY, INC.,
GUS B. (“BUTCH”) NUCKOLS, III AND JOHN J. BLATZHEIM**

This Settlement Agreement (“Agreement”) is made and entered into as of this 31st day of March, 2010 (the “Execution Date”) by and among Builder’s Concrete & Supply, Inc., Gus B. (“Butch”) Nuckols, III, and John J. Blatzheim (collectively the “Builder’s Defendants”) and plaintiff class representatives, Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Wininger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc. (collectively, “Plaintiffs”), both individually and on behalf of a proposed class of purchasers of Ready-Mixed Concrete who purchased Ready-Mixed Concrete, which was delivered from a facility within the Central Indiana Area from July 1, 2000 through May 25, 2004, directly from any Defendants (or any predecessors, parents, subsidiaries, or affiliates thereof) named in the Second Amended Consolidated Class Action Complaint (the “Complaint”) in the above-captioned consolidated action (the “Action”) pending in the United States District Court for the Southern District of Indiana (the “Court”).

WHEREAS, Plaintiffs are prosecuting the Action on their own behalf and on behalf of a certified Class against (among others) the Builder’s Defendants; and

WHEREAS, Plaintiffs allege that the Builder's Defendants participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of Ready-Mixed Concrete in the Central Indiana Area at artificially high levels, in violation of Section 1 of the Sherman Act; and

WHEREAS, the Builder's Defendants each have denied and do deny participating in the conspiracy alleged in the Complaint and believe that they have good defenses to the claims alleged against them in the Complaint; and

WHEREAS, there has been no determination by the Court of any wrongdoing or liability of any kind by the Builder's Defendants; and

WHEREAS, Plaintiffs, through their counsel, have conducted an investigation into the facts and the law regarding the Action and have concluded that a settlement with the Builder's Defendants according to the terms set forth below is in the best interest of Plaintiffs and the proposed Class; and

WHEREAS, the Plaintiffs, through their counsel, have conducted an extensive investigation into the Builder's Defendants' ability to pay the Plaintiffs and proposed Class either through settlement or a judgment, and the Builder's Defendants have provided extensive financial documentation which was reviewed by an independent accountant for the Plaintiffs, and the Plaintiffs, their counsel and accountant have determined that the amount of the proposed settlement is reasonable and fair under the circumstances, including the Builder's Defendants' financial conditions; and

WHEREAS, the Builder's Defendants have agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation;

NOW, THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, it is agreed by and among the

undersigned that the Action be settled, compromised and dismissed on the merits as to claims against the Builder's Defendants only, subject to the approval of the Court, with each side to bear its own costs and attorneys' fees, and on the following terms and conditions.

A. Definitions

The following terms, as used in this Agreement, have the following meanings:

1. "Central Indiana Area" means Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby Counties, in the State of Indiana.

2. "Class" and "Settlement Class" mean all persons or entities who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions.

3. "Class Counsel" shall refer to the law firms of Cohen & Malad, LLP, One Indiana Square, Suite 1400, Indianapolis, Indiana, and Susman Godfrey, LLP, 901 Main Street, Suite 5100, Dallas, Texas.

4. "Class Member" means each member of the Class who does not timely elect to be excluded from the Class.

5. "Class Period" means the period from and including July 1, 2000 through and including May 25, 2004.

6. “Class Representatives” or “Plaintiffs” means Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Wininger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc.

7. “Defendants” means the Defendants named in the above-captioned Action, and includes Irving Materials, Inc., Shelby Gravel, Inc. d/b/a Shelby Materials, Builder’s Concrete & Supply, Inc., Southfield Corporation f/k/a Prairie Material Sales, Inc., American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, MA-RI-AL Corporation, Beaver Materials Corporation, Ricky Beaver, Chris Beaver, Fred R. “Pete” Irving, Price Irving, John Huggins, Daniel C. Butler, Gus B. (“Butch”) Nuckols, III, John J. Blatzheim, Scott D. Hughey, Richard Haehl, Philip Haehl, and Gary Matney. “Other Defendants” means all Defendants except the Builder’s Defendants.

8. The “Effective Date” of this Agreement shall be the first day on which the following are true: (a) the Court has entered a final order approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action against the Builder’s Defendants on the merits as to all Settlement Class Members and without costs, and (b) the time for appeal or to seek permission to appeal from the Court’s approval of this Agreement has expired, or the final order approving this Agreement has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

9. “Execution Date” means the last date on which this Agreement is signed by a party hereto, which is the date first written above.

10. “Ready-Mixed Concrete” means a product comprised of cement, sand, gravel, water, and occasionally additional additives.

11. “Releasees” shall refer individually and collectively to (a) Builder’s Concrete & Supply, Inc. and its past and present officers, directors, employees, stockholders, attorneys, servants, representatives, parents, subsidiaries, affiliates, and partners; (b) Gus B. (“Butch”) Nuckols, III, and his heirs, executors, and guardians; and (d) the respective successors, agents and assigns of (a) – (c). Notwithstanding the foregoing, “Releasees” does not include any Other Defendant, any person or entity not covered by the foregoing definition of Releasees who may be subsequently added or joined as a defendant in the Action, or any person or entity not covered by the foregoing definition of Releasees who is shown or alleged to have been a co-conspirator of Defendants with respect to the conspiracy alleged in the Complaint.

12. “Releasors” shall refer jointly and severally and individually and collectively to the Class Representatives and their respective past and present parents, attorneys, subsidiaries, affiliates, agents, heirs, executors, administrators, guardians, successors and assigns; the Class members and their respective past and present parents, attorneys, subsidiaries, affiliates, agents, heirs, executors, administrators, guardians, successors and assigns; and Class Counsel.

13. “Settlement Amount” means the sum of \$5,515,000.

14. The “Settlement Fund” means the account established by order of the Court and maintained under the Court’s jurisdiction as a Qualified Settlement Fund within the meaning of Treasury Regulation 1.468B-1, as amended, for the purpose of investing, conserving and protecting the Settlement Amount, and any interest earned thereon prior to distribution, and distribution as directed by the Court.

B. Stipulation to Certification of Settlement Class

15. The parties to this Agreement hereby stipulate that, for purposes only of this settlement and for no other purpose, the requirements of Federal Rules of Civil Procedure 23(a)

and 23(b)(3) are satisfied and, subject to Court approval, the following class (the “Settlement Class”) shall be certified for settlement purposes as to the Builder’s Defendants:

All Persons who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, or Shelby, in the State of Indiana, at any time during the period from and including July 1, 2000 through and including May 25, 2004, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions.

In the event this settlement is not approved or becomes void or ineffective for any reason, the execution of this Settlement Agreement and any related papers, the certification of the Settlement Class, and any act taken or court paper filed in furtherance of this Settlement Agreement shall not be used to urge that a litigation class should be or should have been certified against the Builder’s Defendants, and the Builder’s Defendants each retains the right to object to the maintenance of this or any other action as a class action and to contest this or any other action on any other grounds.

C. Approval of this Agreement and Dismissal of Claims

16. Plaintiffs and the Builder’s Defendants shall use their best efforts to effectuate this Agreement, including cooperating in promptly seeking both the Court’s certification of the Settlement Class under Federal Rules of Civil Procedure 23(a) and 23(b)(3) and the Court’s approval of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(d) and (e)) to secure the prompt, complete, and final dismissal of the Action as to the Builder’s Defendants.

17. As soon as practicable, but in no event later than ten (10) business days after the Execution Date, Plaintiffs shall submit to the Court a motion for certification of the Settlement Class and preliminary approval of this Settlement Agreement (the “Motion”). The Motion shall

include: (a) a copy of this Settlement Agreement executed by the parties hereto; (b) a request that the Court certify, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and the terms of this Agreement, the Settlement Class defined herein; (c) a request that the Court preliminarily approve this Settlement Agreement as fair, reasonable and adequate to the Plaintiffs and members of the Settlement Class (“Preliminary Approval Order”); (d) a request that the Court approve and direct, as the best notice practicable under the circumstances: (i) mailed notice to Settlement Class members in the form attached hereto and marked as Exhibit “A” and (ii) published notice to Settlement Class members in the form attached hereto and marked as Exhibit “B”; (e) a request that the Court approve and enter a proposed Preliminary Approval Order in the form attached hereto and marked as Exhibit “C”; and (f) a request that the Court schedule a hearing on final approval of this Agreement at the convenience of the Court. Individual notice of the settlement in the form attached hereto and marked as Exhibit “A” shall be mailed to persons and entities who are identified by the Defendants as direct purchasers of Ready-Mixed Concrete who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Central Indiana Area, at any time during the Class Period, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions. The Builder’s Defendants hereby represent that they have previously supplied to Class Counsel the names and addresses of potential Class Members within the Builder’s Defendants’ possession, custody or control.

Subject to the Court’s approval, notice in the form attached hereto and marked as Exhibit “B” shall be published twice in the Indianapolis Star.

Within 10 days of the filing of the Motion, the Builder's Defendants shall provide notice of this settlement, the filed Motion and other court papers to federal and state government officials as required by 28 U.S.C. § 1715.

18. Plaintiffs and the Builder's Defendants shall jointly seek entry of a Final Approval Order, in the form attached hereto and marked as Exhibit "D":

- (a) as to the Action, approving finally this Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;
- (b) directing that, as to the Builder's Defendants, the Action be dismissed without assessment of costs or attorneys' fees against the Builder's Defendants, subject to paragraph 23 below;
- (c) reserving exclusive jurisdiction over the settlement, the Settlement Fund and this Agreement, including the administration and consummation of this settlement; and
- (d) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the Final Approval Order, and dismissal as to the Builder's Defendants, shall be final and entered forthwith.

19. This Agreement shall become final on the Effective Date, and shall relate back to the Execution Date. It is agreed that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. §1651, shall be taken into account in determining the occurrence of the Effective Date. Notwithstanding the foregoing, on the date that Plaintiffs and the Builder's Defendants have executed this Agreement, Plaintiffs and the Builder's Defendants shall be bound by its terms, and this Agreement shall not be rescinded except in accordance with paragraph 28 of this Agreement.

D. Release and Discharge

20. Upon the Effective Date and in consideration of payment of the Settlement Amount and/or consent to the Judgment Entry as specified in Section E of this Agreement, and for other valuable consideration, the Releasees, and each of them, shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits and causes of action at law or in equity, pursuant to statute or otherwise, whether known or unknown, fraudulently concealed or otherwise concealed, whether the alleged damages have accrued or not accrued, whether class, individual or otherwise in nature, that Releasers, or any of them, ever had, now has, or hereafter can, shall, or may have on account of, related to, or arising out of or resulting from anything said, done or omitted, including but not limited to any alleged conspiracy, combination or agreement concerning the pricing, selling, discounting, marketing, manufacturing, or distributing of Ready-Mixed Concrete in or from the Central Indiana Area from the beginning of time through and during the Class Period, and including but not limited to any conduct alleged, and causes of action asserted, or that could have been alleged or asserted, in the Complaint filed in the Action or any amendment thereto, which arise under any federal or state antitrust or anticompetitive statute, law, rule, regulation, or common law doctrine, whether pursuant to a conspiracy or otherwise, including, without limitation, the Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.* and Indiana Code § 24-1, *et seq.* (“Released Claims”), provided, however, that nothing herein shall release any claim not associated with the Released Claims, including, but not limited to, personal injury, wrongful death, product defect or breach of contract, or account claims between buyers and sellers of Ready Mixed Concrete. The Releasers shall not, after the Effective Date of this Agreement, seek to recover against any of the Releasees for any

of the Released Claims. Nothing in this paragraph shall prevent Plaintiffs and Class Counsel from enforcing the Judgment Entry entered pursuant to paragraph 25 below.

21. Upon the Effective Date, for good and valuable consideration, the Releasees shall be completely released, acquitted, and forever discharged from any and all Released Claims by Releasors against any and all of the Releasees. The failure of any member of the Settlement Class to opt out by the opt-out date set by the Court or to obtain any payment from the Settlement Fund shall not affect the releases herein. Nor shall the releases be affected in any way by any subsequent determination that the allocation of any payment to the Settlement Class from the Settlement Fund was unfair. Upon the Effective Date, for good and valuable consideration, any claims against Releasors, arising out of, relating to or in connection with the Action as against the Builder's Defendants are hereby released by the Releasees and their counsel, and they are each and all permanently enjoined and barred from instituting, asserting or prosecuting any and all claims which the Releasees or their counsel or any of them, had, have or may in the future have against Releasors, arising out of, relating to or in connection with the Action as against the Builder's Defendants.

E. Payments

22. Settlement Payment. The Builder's Defendants shall pay or cause to be paid the Settlement Amount in settlement of the Action, to be administered in accordance with the provisions of Section F of this Agreement. The Settlement Amount shall be paid in installments, by wire transfer to the Settlement Fund in accordance with wiring instructions provided by Class Counsel, according to the following terms:

- (a) The first installment, in the amount of \$115,000, shall be paid no more than five (5) days after the Effective Date.

(b) The second installment, in the amount of \$1 million, shall be paid on or before December 31, 2010 or five (5) days after the Effective Date, whichever is later.

(c) Subsequent installments, each in the amount of \$1.1 million, shall be paid on or before December 31, 2011, December 31, 2012, December 31, 2013, and December 31, 2014.

(d) The Builder's Defendants, or any of them, may pre-pay any portion of the Settlement Amount that remains outstanding under the terms set forth in this Paragraph 22, by paying the present value of the amount to be pre-paid. The present value of the amount to be pre-paid shall be determined by application of the Internal Revenue Service ("IRS") Mid-Term Applicable Federal Rate ("Mid-Term AFR"), Annual Period of Compounding, in effect at the time of the payment.

(e) Any payments designated as prepayments by the Builder's Defendants shall be applied to the installments set forth in Subparagraphs 22(a), (b) and (c) above in reverse chronological order (for example, prepayments will be applied first to the installment dated December 31, 2014, next to the installment dated December 31, 2013, and so on). The prepayment by the Builder's Defendants, or any of them, of any portion of the Settlement Amount shall not relieve the Builder's Defendants from the obligation under this Paragraph 22 to timely pay any and all installments set forth in Subparagraphs 22(a), (b) and (c) above, as they come due, to the extent they remain unpaid.

23. Effect of Opt-Outs. The Builder's Defendants each represent that they have not encouraged, directly or indirectly, and agree that they will not encourage, directly or indirectly, any potential Class Member to exercise their right to exclude themselves from this settlement. The Builder's Defendants each further represent that they have not provided, and except with the

prior consent of Class Counsel will not provide assistance, advice, counsel or information to any potential Class Member related to the potential Class Member's right to request exclusion from this settlement. Provided, however, that nothing in this Paragraph shall prevent the Builder's Defendants from responding to an inquiry from a Class Member, where pertinent, with a statement encouraging the Class Member: (i) to not request exclusion from this settlement; and/or (ii) to seek any benefits to which the Class Member may be entitled under this settlement. Within ten (10) days after the deadline for Class Members to exclude themselves from the Settlement Class, Class Counsel shall deliver to the Builder's Defendants' counsel: (1) a list of the potential Class Members who submitted requests for exclusion from the Settlement Class (including requests for exclusion deemed by Class Counsel to be untimely or otherwise invalid), and (2) Class Counsel's good faith computation, based on data provided by the Defendants, of the amount of Defendants' collective dollar sales of Ready-Mixed Concrete from facilities within the Central Indiana Area during the Class Period to each of the those members of the Class who submitted timely and valid requests for exclusion from this Settlement ("Opt-Out Sales"). The Settlement Amount and the Settlement Fund shall be reduced for Opt-Out Sales as follows:

- (a) If the total amount of Opt-out Sales, as agreed by the parties or determined by the Court, is \$34 million or less, the Settlement Amount shall not be adjusted. If the amount of Opt-Out Sales, as agreed by the parties or determined by the Court, is greater than \$34 million, then the Settlement Amount and Settlement Fund shall be reduced by an amount equal to \$22.50 for every \$1,000 by which the amount of Opt-Out Sales exceeds \$34 million. By way of illustration, if the total of Opt-Out Sales is \$54,000,000, then the Settlement Amount shall be reduced by \$450,000.

- (b) Any such reductions to the Settlement Amount shall be computed and shall be final prior to the Builder's Defendants' obligation to pay under paragraph 22 above, provided however, that if the amount of Opt-Out Sales is \$136 million or more, then Plaintiffs and the Builder's Defendants shall each have the right, at their/its sole option and discretion, and without incurring any liability to each other or to any other party to this Agreement, to elect at any time within twenty (20) days after the deadline for Class Members to exclude themselves from the Settlement Class to rescind this Agreement in its entirety provided, however, that the twenty (20) day period described in this sentence may be extended as provided in paragraph 24 below.

24. Disputes Concerning Opt Out Sales Calculation. The Builder's Defendants shall have the right to dispute the accuracy of Class Counsel's computation of Opt-Out Sales and the right to receive copies of all requests for exclusion from the Settlement Class (including requests for exclusion deemed by Class Counsel to be untimely or otherwise invalid). If there is any dispute regarding the timeliness or validity of any requests for exclusion or calculation of Opt-Out Sales, the parties shall attempt in good faith to resolve the dispute within the twenty (20) day period for rescission of this Agreement provided in Paragraph 23(b). If the dispute cannot be resolved by the parties, then it shall be submitted to the Court for final determination pursuant to Paragraph 33 of this Agreement, in connection with which the Court may direct the parties to exchange any non- privileged information, data or data compilations relevant to a determination of the amounts under this paragraph. In the event that any dispute regarding the timeliness or validity of any requests for exclusion or calculation of Opt-Out Sales is submitted to the Court for final determination, any right to rescind this Agreement under the terms of Paragraph 23(b)

must be exercised within five (5) days after the Court's determination, or within the twenty (20) day period provided in Paragraph 23(b), whichever is later.

25. Judgment Entry and the Effect of Non-Payment of the Settlement Amount. At an appropriate time following the Execution Date Class Counsel shall submit to the Court a Declaration and a Judgment Entry in the form attached hereto as Exhibit "E" or in the form attached hereto as Exhibit "F," in accordance with the following provisions:

(a) In the event the Builder's Defendants timely make all payments required under paragraph 22 above, the Court shall enter a judgment of dismissal with prejudice of the Released Claims, and the Builder's Defendants consent to the entry by the Court of the Judgment Entry attached hereto and marked Exhibit "E" immediately upon the submission by Class Counsel of a verified Declaration stating that the Builder's Defendants have timely made all payment required under paragraph 22 of this Agreement.

(b) In the event the Builder's Defendants fail to timely make any of the payments required under paragraph 22 above, the Court shall enter a judgment against Builder's Defendants, jointly and severally, and in favor of the Class, in the amount of Ninety-Four Million, Six Hundred Fifty Thousand, Two Hundred Eighty-One Dollars (\$94,650,281), and the Builder's Defendants consent to the entry by the Court of the Judgment Entry attached hereto and marked Exhibit "F" immediately upon the submission by Class Counsel of a verified Declaration stating that the Builder's Defendants have failed to make any payment required under paragraph 22 of this Agreement, which Judgment Entry shall not be subject to appeal or reconsideration by the Builder's Defendants.

26. Joint and Several Liability; Insolvency. The obligations pursuant to paragraph 22 of this Agreement are joint and several as to each of the Builder's Defendants. In the event of default, insolvency or a declaration of bankruptcy by any one or more of the Builder's Defendants, the remainder of the Builder's Defendants, jointly and severally, shall continue to be obligated to fulfill all the provisions and obligations of paragraph 22 of this Agreement unless the Agreement is properly rescinded pursuant to paragraph 30 of this Agreement.

27. Sale of Builders Concrete & Supply, Inc. In the event of a stock sale of Builders Concrete & Supply, Inc., or a sale of substantially all of its assets, the parties agree that any proceeds of the sale (subject to and net of existing liens and encumbrances and the reasonable costs and expenses of the sale) shall not be distributed to insiders, including but not limited to Mr. Blatzheim or Mr. Nuckols, or unsecured parties unless and until all payments due or to be due under Paragraph 22 have been satisfied, or the parties to this Agreement have agreed in writing to an escrow or similar arrangement to assure timely payment of the Settlement Amount. Nothing in this Agreement shall preclude or impair any of the Builder's Defendants from transferring or encumbering any asset in order to make the payments due or to be due under Paragraph 22, provided, however, that: (i) Builders Concrete & Supply, Inc. shall give 15 days' notice of intent to transfer more than 20% of its stock or assets; and (ii) the Plaintiffs shall not unreasonably withhold their consent to any transfer or sale of any such assets or the stock of Builders Concrete & Supply, Inc. Nothing in this Agreement shall preclude Builder's Concrete & Supply, Inc. from conducting business in the ordinary course.

F. The Settlement Fund

28. The Settlement Fund shall at all times be subject to the jurisdiction of the Court. After the Effective Date, Plaintiffs and Class Counsel shall have the right to seek, and the

Builder's Defendants shall not oppose, Court approval of payments from the Settlement Fund for distribution to Settlement Class members or to reimburse Class Counsel for reasonable expenditures made or to be made by Class Counsel in the prosecution of the Action against the Defendants. In no event shall the Builder's Defendants have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such distribution and administration. In no event shall the Builder's Defendants have any liability with respect to the giving of notice of this settlement to Settlement Class members, including, but not limited to, the expense and cost of such notice.

29. Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all fees and expenses including, but not limited to, attorneys' fees and expenses. Plaintiffs and Class Counsel shall seek, and the Builder's Defendants shall not oppose, the Court's approval of the payment of attorneys' fees in the amount of 33 1/3 % of the Settlement Amount, and reimbursement of reasonable expenses, to be paid from the Settlement Fund. The Builder's Defendants shall not be liable for any costs, fees or expenses of any of Plaintiffs' respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court shall be paid out of the Settlement Fund.

G. Rescission if the Agreement is Not Finally Approved

30 If the Court refuses to approve this Agreement or any part hereof, or if such approval is modified or set aside on appeal, or if the Court does not enter the Final Approval Order substantially as provided for in paragraph 18 of this Agreement, or if the Court enters the Final Approval Order and appellate review is sought and, on such review, such Final Approval Order is not affirmed, then the Builder's Defendants and the Plaintiffs shall each, in its or their

sole discretion, and without incurring any liability to each other or to any other party to this Agreement, have the option to rescind this Agreement in its entirety. A modification or reversal on appeal of any amount of Class Counsel's attorneys' fees and expenses awarded by the Court from the Settlement Fund or any Plan of Allocation of the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such Final Approval Order.

31. The Builder's Defendants and Plaintiffs expressly reserve all of their rights if the Agreement does not become effective or if it is rescinded pursuant to paragraph 30 of this Agreement. The Builder's Defendants each enter this Agreement without in any way acknowledging any fault, liability or wrongdoing of any kind. Nothing contained in this Agreement or any notice or other exhibit to this Agreement, including the Class definition and any reference to "co-conspirators" in this Agreement or in any notice of other exhibit to this Agreement, shall be construed in any way as an admission or evidence of any illegal conduct, fault, liability or wrongdoing of any kind by any of the Builder's Defendants. Further, Plaintiffs and the Builder's Defendants agree that this Agreement, whether or not it is finally approved and whether or not rescinded pursuant to paragraph 30 of this Agreement, and any and all negotiations, documents, and discussions associated with or exchanged in connection with it, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by any defendant, or of the truth of any of the claims or allegations contained in the Complaint or any other pleading filed by Plaintiffs in the Action, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Action or in any other action or proceeding.

H. Taxes

32. The Settlement Fund shall be established and maintained at all times as a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1, as amended. Class Counsel shall be solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. The Builder's Defendants shall have no responsibility to make any filings or tax filings relating to the Settlement Fund and will have no responsibility to pay tax on any income earned by the Settlement Fund or pay any taxes on the Settlement Fund, unless the settlement is not consummated and the Settlement Fund is returned to the Builder's Defendants. In the event the settlement is not consummated, the Builder's Defendants shall be responsible for the payment of all taxes on said income that have not already been paid out of the Settlement Fund as provided in this Agreement. However, the Builder's Defendants shall not be responsible for paying any interest or penalties relating to tax filings made by Class Counsel or tax payments owed as a result of those filings or the lack of timely filing thereof.

I. Miscellaneous

33. Discovery and Future Cooperation.

(a) Limitation On Future Cooperation With Other Defendants. The Builder's Defendants agree to withdraw from any joint defense or similar agreement they or their counsel may have with any Other Defendant or counsel for any Other Defendant, and

agree not to voluntarily assist Other Defendants in their defense of the claims brought against them by the Plaintiffs and the proposed class in the Action unless the Builder's Defendants are ordered to do so by a court of competent jurisdiction or they are otherwise required to do so by law, in which case the Builder's Defendants shall advise Class Counsel of the substance of any such assistance provided to Other Defendants; provided, however, that the limitation on future cooperation with Other Defendants shall apply only to this Action and shall not apply to any other investigation, litigation or proceeding.

(b) Agreement To Assist Plaintiffs With Records and Data. The Builder's Defendants agree to cooperate in good faith with, and to provide reasonable technical assistance to, Class Counsel with respect to obtaining and understanding the operational and financial records of Builder's Concrete & Supply, Inc., including electronic transaction and customer data, to the extent reasonably necessary for Plaintiffs to provide court-ordered notices to Class Members, to facilitate distribution of funds to Class Members, or to otherwise assist Plaintiffs in their prosecution of this Action. The obligations set forth in this subparagraph apply both to records and electronic data already provided by the Builder's Defendants and, to the extent reasonably necessary, relevant, discoverable and non-privileged, records and electronic data, if any, in the Builder's Defendants' possession or control that may be requested by Class Counsel in the future.

(c) Additional Specific Provisions Related to Individual Builder's Defendants' Agreements to Cooperate with Class Counsel and to Appear at Trial. In addition to the provisions in Paragraphs 31(a) and (b), Gus B. ("Butch") Nuckols, III, and John J. Blatzheim agree that: (1) they will supply to Class Counsel upon future request

affidavits or declaration statements under oath and subject to the penalties for perjury, consistent with but not limited to statements made by them in their interrogatory answers in the Action and/or in interviews with the United States Department of Justice; and (2) in the event of a trial in the Action, upon request by Class Counsel, they will appear voluntarily as witnesses at trial without the necessity of a subpoena. In order to facilitate future communications, Gus B. (“Butch”) Nuckols, III, and John J. Blatzheim agree to keep their counsel advised of their whereabouts while the Action remains pending.

(d) Additional Specific Provisions Related to Builder’s Concrete & Supply, Inc. In addition to the provisions in Paragraphs 31(a) and (b), Builder’s Concrete & Supply, Inc. agrees that: (1) it will supply to Class Counsel upon future request affidavits, declarations or certifications as to the authenticity of documents and data, or, proffer a 30(b)(6) witness to authenticate documents and data, produced by the Builder’s Defendants; and (2) it will supply witnesses, upon request by Class Counsel, in the event of a trial in the Action, who will appear at trial voluntarily and without the necessity of a subpoena.

34. The Parties agree that all financial and other information and materials exchanged between or among the Parties, their counsel or accountants in connection with the settlement discussions and negotiations leading up to this Agreement, including any information or materials derived from these items or information (collectively the “Settlement Materials”) shall remain strictly confidential and shall not be provided to any other person, entity or agency with the express, prior written consent of the Party and its counsel who first provided the information. Within twenty (20) business days of the date on which the Settlement Amount has been paid in full or this Agreement becomes null and void for any reason, the Parties shall return to each any and all Settlement Materials unless counsel for the Parties agree otherwise in writing.

35. This Agreement does not settle or compromise any claim by Plaintiffs or any Class Member asserted in the Action against any Other Defendant or any alleged co-conspirator other than the Releasees. All rights of any Class Member against Other Defendants, alleged co-conspirators or any other person or entity other than the Releasees are specifically reserved by Plaintiffs and the Class Members. Similarly this Agreement does not settle or compromise any claim by any Builder's Defendant against any Other Defendant or any alleged co-conspirator other than the Releasors. The sales of Ready-Mixed Concrete by Builder's Concrete & Supply, Inc. and its affiliates in the Central Indiana Area shall remain in the case against the Other Defendants as a basis for damage claims and shall be part of any joint and several liability claims against Other Defendants.

36. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by Plaintiffs and the Builder's Defendants.

37. This Agreement (including the recitals above) constitutes the entire agreement among Plaintiffs and the Builder's Defendants pertaining to the settlement of the Action against the Builder's Defendants and Releasees only and supersedes any and all prior and contemporaneous undertakings of Plaintiffs and the Builder's Defendants in connection therewith. This Agreement may be modified or amended only by a writing executed by Plaintiffs and the Builder's Defendants, and approved by the Court.

38. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Releasors and Releasees. Without limiting the generality of the foregoing and

subject to the Effective Date occurring: (a) each and every covenant and agreement made herein by Plaintiffs or Class Counsel shall be binding upon all Class Members and Releasors, and (b) each and every covenant and agreement made herein by the Builder's Defendants shall be binding upon all Releasees.

39. This Agreement may be executed in counterparts by Plaintiffs and the Builder's Defendants, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

40. Neither the Builder's Defendants nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

41. Nothing expressed or implied in this Agreement is intended to or shall be construed to confer upon or give any person or entity other than Plaintiffs, Settlement Class Members, Class Counsel, Releasors, and Releasees any right or remedy under or by reason of this Agreement.

42. Where this Agreement requires any party to provide notice or any other communication or document to any other party, such notice, communication, or document shall be provided by letter sent by same day facsimile transmission or electronic mail transmission with confirmation by overnight delivery or hand delivery.

43. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

44. This Agreement shall be interpreted and construed in accordance with the laws of the State of Indiana, and any dispute or claims arising under or related to the terms or provisions

of this Agreement, whether styled in contract, tort or otherwise, shall be governed by the internal laws of the State of Indiana without reference to choice of law or conflict of law principles.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the Execution Date set forth above.

DEFENDANTS:

Builder's Concrete & Supply, Inc., by its duly-authorized officer:

Signature

Name

Title

Date

And Gus B. ("Butch") Nuckols, III, Individually:

Signature

Date

And John J. Blatzheim, Individually:

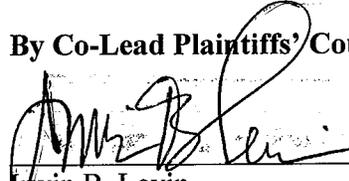
Signature

Date

PLAINTIFFS:

Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Winger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc.

By Co-Lead Plaintiffs' Counsel:



Irwin B. Levin

COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 636-6481
Facsimile: (317) 636-2593

Stephen D. Susman
SUSMAN GODFREY LLP
901 Main St., Ste. 5100
Dallas, TX 75202
Telephone: (214) 754-1903
Facsimile: (214) 754-1933

44. This Agreement shall be interpreted and construed in accordance with the laws of the State of Indiana, and any dispute or claims arising under or related to the terms or provisions of this Agreement, whether styled in contract, tort or otherwise, shall be governed by the internal laws of the State of Indiana without reference to choice of law or conflict of law principles.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the Execution Date set forth above.

DEFENDANTS:

*Builder's Concrete & Supply, Inc., by its
duly-authorized officer:*

G B Nuckols III
Signature

Gus B Nuckols III
Name

President
Title

3/31/10
Date

*And Gus B. ("Butch") Nuckols, III,
Individually:*

G B Nuckols III
Signature

3/31/10
Date

PLAINTIFFS:

*Kort Builders, Inc., Dan Grote, Cherokee
Development, Inc., Winger/Stolberg Group,
Inc., Marmax Construction, LLC, Boyle
Construction Management, Inc., and T&R
Contractor, Inc.*

By Co-Lead Plaintiffs' Counsel:

Irwin B. Levin
COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 636-6481
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Stephen D. Susman
SUSMAN GODFREY LLP
901 Main St., Ste. 5100
Dallas, TX 75202
Telephone: (214) 754-1903
Facsimile: (214) 754-1933

*And by counsel for Builder's Concrete &
Supply, Inc., Gus B. ("Butch") Nuckols, III,
and John J. Blatzheim:*



Judy L. Woods

Curtis T. Jones

BOSE MCKINNEY & EVANS, LLP

111 Monument Circle, Suite 2700

Indianapolis, IN 46204

Telephone: (317) 684-5000

Facsimile: (317) 684-5173

EXHIBIT “A”

Exhibit "A"

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

NOTICE OF CLASS ACTION SETTLEMENT AND HEARING

If you are or were a person or entity who purchased Ready-Mixed Concrete directly from Irving Materials, Inc., Prairie Material Sales, Inc. or its subsidiary Hoosier Concrete LLC, Builder's Concrete & Supply, Inc., Shelby Gravel, Inc., d/b/a Shelby Materials, American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, or MA-RI-AL Corporation d/b/a Beaver Materials Corporation, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004, you may be entitled to comment on, exclude yourself, or receive payments from the Settlement.

The United States District Court for the Southern District of Indiana has authorized this notice. This is not a solicitation. This is not a lawsuit against you and you are not being sued.

- You received this Notice because you are included among the persons or entities believed to have purchased Ready-Mixed Concrete directly from Irving Materials, Inc., Prairie Material Sales, Inc. or its subsidiary Hoosier Concrete LLC, Builder's Concrete & Supply, Inc., Shelby Gravel, Inc., d/b/a Shelby Materials, American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, or MA-RI-AL Corporation d/b/a Beaver Materials Corporation (the "Defendants"), which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004 (the proposed "Settlement Class").
- A Settlement has been reached between the Plaintiffs in *In re Ready-Mixed Concrete Antitrust Litigation*, Case No. 1:05-cv-00979-SEB-JMS (the "Lawsuit") and Builder's Concrete & Supply, Inc. ("BCS"), Gus B. ("Butch") Nuckols, III, and John J. Blatzheim (collectively the "Builder's Defendants"), and the proposed Settlement Class has been certified by the United States District Court for the Southern District of Indiana (the "Court"). The settlement includes BCS's subsidiaries and affiliates. The Court has appointed the Plaintiffs to represent the Settlement Class and their attorneys as Class Counsel. This is a partial settlement, and does not conclude any claims against Defendants other than the Builder's Defendants.
- The purpose of this Notice is to advise members of the Settlement Class defined above of the proposed Settlement of claims being asserted against the Builder's Defendants, and how to assert any rights you may have under the Settlement. It is also intended to advise you of a hearing to consider the proposed settlement on _____. The Court must decide whether to approve the Settlement as fair, just and reasonable.
- The Lawsuit asserts that the Defendants conspired to raise, fix, maintain, or stabilize the price of Ready-Mixed Concrete sold from plants in the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana (the "Central Indiana Area") at artificially high levels, in violation of Section 1 of the Sherman Act, Title 15, United States Code, Section 1. The Defendants have denied liability and raised certain defenses to these claims, which if sustained by the Court following a trial may minimize or defeat any recovery for the Class.

- If you are a member of the Settlement Class, your legal rights are affected whether you act or choose not to act. PLEASE READ THIS NOTICE CAREFULLY.

YOUR LEGAL RIGHTS AND OPTIONS: (YOU MUST CHOOSE BETWEEN ONE OF THESE OPTIONS)		DEADLINE
EXCLUDE YOURSELF	You may exclude yourself from the Settlement, in which case you will not be eligible to receive any payments from the Settlement that are approved by the Court, or to comment on the Settlement. This is the only option that allows you to be part of any other lawsuit against the Builder's Defendants about the legal claims brought, or which could be brought in this case.	M/D/Y
DO NOTHING	If you choose to do nothing you will remain eligible to receive any payments from the Settlement that are approved by the Court. This will result in a release of any right you may have to pursue the legal claims brought, or which could have been brought in this case against the Builder's Defendants, but will not result in a release of any right you may have to pursue the same legal claims against the other Defendants.	N/A
OBJECT	Write to the Court if you do not think the Settlement is fair. If you exclude yourself from the Settlement you may not object.	M/D/Y
GO TO A HEARING	If you object, you may also ask to speak in Court about the fairness of the Settlement.	M/D/Y

These rights and options – and the deadlines to exercise them – are explained in this Notice.

BASIC INFORMATION

1. Why did I get this Notice?

This Notice has been sent to you because the Defendants' records show that you purchased Ready-Mixed Concrete directly from one of the Defendants or a Defendant's subsidiary or affiliate, which was delivered from a facility within the Central Indiana Area at any time from and including July 1, 2000 through and including May 25, 2004. You have the right to know about a proposed settlement of a class action lawsuit that may affect your rights.

This Notice explains the Lawsuit, the terms of the Settlement, your legal rights, what benefits may be available, who may be eligible for them, and what you will be giving the Builder's Defendants in this Settlement.

The Court in charge of the case is the United States District Court for the Southern District of Indiana. The case is known as *In re Ready-Mixed Concrete Antitrust Litigation*, Case No. 1:05-cv-00979-SEB-JMS. The companies who sued are called the Plaintiffs. The companies the Plaintiffs sued are called the Defendants. The Defendants sold Ready-Mixed Concrete in the Central Indiana Area during the period from July 1, 2000 through May 25, 2004; that is the focus of the lawsuit.

2. What is the Lawsuit about?

In the Lawsuit, the Plaintiffs claim that, from July 1, 2000 through May 25, 2004, the Defendants conspired to raise, fix, maintain, or stabilize the price of Ready-Mixed Concrete sold from plants in the Central Indiana Area at artificially high levels, in violation of Section 1 of the Sherman Act, Title 15,

United States Code, Section 1. The Plaintiffs claim that this conspiracy among the Defendants resulted in artificially high prices for Ready-Mixed Concrete sold by Defendants in the Central Indiana Area. The Plaintiffs are seeking money damages and other relief on behalf of themselves and other persons and entities who purchased Ready-Mixed Concrete directly from the Defendants during this time period. The Court has not made any determination of the Builder's Defendants' liability for these claims.

The Builder's Defendants deny any liability for the claims in the Lawsuit, and the Court has not made any determination of the Builder's Defendants' liability for these claims.

3. What is a class action?

A class action is a lawsuit in which one or more persons called class representatives sue on behalf of other persons who have similar claims. Together all these persons are a Class or individually, Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. For this reason, the judge must find that the Settlement of this class action is fair, reasonable and adequate before the Settlement can receive final court approval.

4. Why is there a settlement?

The Lawsuit has not gone to a trial. Instead, the Plaintiffs and the Builder's Defendants agreed to settle to avoid the costs and risks of trial. The Settlement provides the opportunity for payments or other benefits to be made available to Class Members. Under this Settlement, Class Members give the Builder's Defendants a release of any right they may have to pursue the same legal claims brought, or which could have been brought, in this case against the Builder's Defendants.

This is a partial settlement of claims made by the Plaintiffs in the Lawsuit, and the Plaintiffs will remain free to pursue any claims that may remain, or become available, against Defendants other than the Builder's Defendants. For example, under certain previous settlements the Plaintiffs retained the right to pursue claims if the Defendants in those settlements do not make required payments. Under this Settlement, Class Members do not give any other Defendant a release of any right they may have to pursue the same legal claims in this case against those Defendants.

WHO IS IN THE SETTLEMENT?

5. How do I know if I am part of the settlement?

You are a member of the Proposed Settlement Class if you purchased Ready-Mixed Concrete directly from Irving Materials, Inc., Prairie Material Sales, Inc. or its subsidiary Hoosier Concrete, LLC, Builder's Concrete & Supply, Inc., Shelby Gravel, Inc., d/b/a Shelby Materials, American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, or MA-RI-AL Corporation d/b/a Beaver Materials Corporation, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004.

6. Are there exceptions to being included?

You are not a Settlement Class Member if you are one of the Defendants, their co-conspirators, their respective parents, subsidiaries, or affiliates. You are also not a Settlement Class Member if you are a federal, state, or local government entity or a political subdivision.

THE SETTLEMENT TERMS

7. What does the settlement provide?

The Builder's Defendants have agreed to pay the amount of \$5,515,000 ("Settlement Amount") pursuant to the terms of the Settlement. This settlement was achieved after more than four years of litigation and numerous negotiating sessions between Class Counsel and the lawyers for the Builder's Defendants. Because of the inherent risks of litigation and the limited financial ability of the Builder's Defendants to pay a settlement or judgment greater than that agreed upon, Plaintiffs believe that the Settlement provides a fair and efficient resolution of the Plaintiffs' and Class Members' claims against the Builder's Defendants.

Under the terms of the Settlement, the Builder's Defendants are required to deposit the Settlement Amount into a Settlement Fund in several installments. The first installment, in the amount of \$115,000, shall be paid no more than five (5) days after the Effective Date. The second installment, in the amount of \$1 million, shall be paid on or before December 31, 2010. Subsequent installments, each in the amount of \$1.1 million, shall be paid on or before December 31, 2011, December 31, 2012, December 31, 2013, and December 31, 2014. In the event the Builder's Defendants fail to make any of the required payments, the Builder's Defendants consent to the Court's entry of a Judgment against them, and in favor of the Settlement Class, in the amount of Ninety-Four Million, Six Hundred Fifty Thousand, Two Hundred Eighty-One Dollars (\$94,650,281).

The Builder's Defendants may pre-pay any portion of the Settlement Amount that remains outstanding, by paying the present value of the amount to be pre-paid. The present value of the amount to be pre-paid shall be determined by application of the Internal Revenue Service ("IRS") Mid-Term Applicable Federal Rate ("Mid-Term AFR"), Monthly Period of Compounding, in effect at the time of the payment. Any payments designated as prepayments by the Builder's Defendants shall be applied to the installments in reverse chronological order (for example, prepayments will be applied first to the installment dated December 31, 2014, next to the installment dated December 31, 2013, and so on). The prepayment by the Builder's Defendants, or any of them, of any portion of the Settlement Amount shall not relieve them from the obligation under to timely pay any and all installments as they come due, to the extent they remain unpaid.

Class Counsel will seek Court permission to distribute the Settlement Fund to Class Members and to pay amounts approved by the Court for Class Counsel's attorneys' fees and reasonable expenses, reasonable future expenditures made or to be made by Class Counsel on behalf of Class Members to pursue the Lawsuit against Defendants other than the Builder's Defendants, notices to Class Members, and incentive payments to the class representatives. The Settlement does not prevent the Plaintiffs from seeking damages from other Defendants caused by the Builder's Defendants' alleged participation in the price-fixing conspiracy.

It is anticipated that the proposed distribution of amounts from the Settlement Fund to Class Members will be in direct proportion to the amount of a Class Member's purchases of Ready-Mixed Concrete from the Defendants at any time from July 1, 2000 through May 25, 2004.

8. When will the Settlement be final?

The Court will hold a hearing on [Month, Day, Year] to decide whether to give final approval to the Settlement. If the Court approves the Settlement and there are no appeals, the Settlement will become final thirty (30) days after the Court's approval.

PARTICIPATING IN THE SETTLEMENT

9. How do I participate in the Settlement?

If you believe you are a member of the Settlement Class, you do not need to take any action at this time to participate in the Settlement. In the event that Plaintiffs and Class Counsel seek to make a distribution of

the Settlement Fund or any other funds recovered in the Lawsuit to Class Members, it is believed that the distribution will be made pursuant to previous notices and Court Orders regarding distribution. In the event a different method of distribution is employed, information about the proposed distribution and instructions for submitting a claim or amending a previously submitted claim will be provided to Class Members.

10. Do I have to give anything up to participate?

If you are a member of the Settlement Class and do not exclude yourself, you will be bound by the terms of the Settlement and any orders of the Court related to the Settlement, and you agree to and will release any right you may have to pursue the same legal claims brought, or which could have been brought, in this case against the Builder's Defendants. However, if you are a member of the Settlement Class as defined by the Court you will not release any of the claims in the Lawsuit against Defendants other than the Builder's Defendants whether or not you exclude yourself from the Settlement Class.

EXCLUDING YOURSELF FROM THE SETTLEMENT

11. How do I get out of the Settlement Class?

You may request to be excluded from, or to "opt-out" of, the Settlement Class. If you elect to be excluded from the Class, you will not be bound by any of the terms of the Settlement or any judgment entered pursuant to the Settlement, nor will you be eligible to receive any of benefits of the Settlement. You will retain and be free to pursue any claims that you may have against the Builder's Defendants on your own behalf and at your own cost.

If you wish to exclude yourself from the Settlement Class, you must mail a written request for exclusion, no later than _____, to the following:

Settlement Class Counsel: Irwin B. Levin Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204
--

Requests for exclusion do not need to be in any particular format, except that the request must:

- State that you intend to "opt-out" or request "exclusion" from the Settlement Class against the Builder's Defendants;
- Contain the full name and current address of the person or entity requesting exclusion;
- Contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than an individual;
- Contain the title of the Lawsuit: "In re Ready-Mixed Concrete Antitrust Litigation;"
- Be signed by you; and
- Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____.

You cannot exclude yourself by phone or email.

12. If I do not exclude myself, can I sue the Builder's Defendants later?

Unless you exclude yourself, you cannot sue the Builder's Defendants for the claims resolved by this Settlement. If you exclude yourself from the Settlement, you cannot participate in or object to the

Settlement, and any claims you may have against sue the Builder’s Defendants will be subject to applicable statutes of limitation.

COMMENTING ON THE SETTLEMENT

13. How do I tell the Court if I do not think the Settlement is fair?

If you are a Settlement Class Member and have not excluded yourself, you can object to the Settlement or any part of the Settlement. The Court will consider your views. Your objection must be in writing, and must be mailed, no later than _____, to the following:

<p>Class Counsel: Irwin B. Levin Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204</p>	<p>Counsel for the Builder’s Defendants: Judy L. Woods BOSE MCKINNEY & EVANS, LLP 111 Monument Circle, Suite 2700 Indianapolis, IN 46204</p>
<p>The Court: The Honorable Sarah Evans Barker, Judge United States District Court, Southern District of Indiana United States Courthouse, Room 210 46 East Ohio Street Indianapolis, IN 46204</p>	

An objection does not need to be in any particular format, except that the objection must:

- Contain the full name and current address of the person objecting;
- Contain the title and a statement of authority of any person objecting on behalf of an entity other than an individual;
- Contain the title of the Lawsuit: “In re Ready-Mixed Concrete Antitrust Litigation;”
- State the reasons for your objection;
- Be accompanied by any evidence, briefs, motions or other materials you intend to offer in support of your objection;
- Be signed by you; and
- Be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____.

You cannot object to the Settlement by phone or email.

Intervention: Any request for intervention must meet the requirements set forth above, including the deadline, for filing objections, must be accompanied by any evidence, briefs, motions or other materials you intend to offer in support of your request for intervention, and must meet the requirements of the Federal Rules of Civil Procedure.

14. What’s the difference between excluding myself and objecting?

If you exclude yourself, you are no longer a member of the Settlement Class and you keep your right to file your own lawsuit against the Builder’s Defendants at your own expense. If you exclude yourself, you may not object to the Settlement and you cannot receive any payments or credits from the Settlement. If you remain a Settlement Class Member, you may object.

15. *Can I have a lawyer represent me?*

The law firms of Cohen & Malad, LLP and Susman Godfrey LLP have been appointed by the Court and represent you and other Settlement Class Members. These lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense. However, any lawyer intending to appear at the Fairness Hearing must be duly admitted to practice law before the United States District Court for the Southern District of Indiana and must file a written appearance no later than _____. Copies of the appearance must be served on Class Counsel and counsel for the Builder's Defendants at the addresses included in this Notice in accordance with the Federal Rules of Civil Procedure.

IF YOU DO NOTHING

16. *What happens if I do nothing at all?*

If you do nothing, you will remain a Settlement Class Member and will remain eligible for any benefits available under the Settlement. If the Court approves the Settlement, you will be bound by its terms as well as any Court orders related to the Settlement, and a release of any right you may have to pursue the same legal claims in this case against the Builder's Defendants will be granted to the Builder's Defendants.

THE LAWYERS REPRESENTING YOU

17. *How will the lawyers and costs be paid?*

Class Counsel will file a petition with the Court no later than seven days prior to the Fairness Hearing asking for payment of attorneys' fees in the amount of 33 1/3 % of the Settlement Amount, and the reimbursement of reasonable expenses, to be paid from the Settlement Fund, which petition will be available on the settlement website. The Court may consider whether to approve the payment of attorneys' fees and expenses in this amount during the Fairness Hearing, or at a later time determined by the Court.

The Builder's Defendants have agreed not to oppose a request by Class Counsel for a payment of attorneys' fees in the amount of 33 1/3 % of the Settlement Amount, and the reimbursement of reasonable expenses, to be paid from the Settlement Fund. If the Court approves these fees and expenses, they will be paid from the Settlement Fund. These fees and expenses, however, will not be paid until time for appeal and/or any appeal of this Settlement has been exhausted. The costs of providing this Notice and published notice of the Settlement, and the costs of settlement administration, will be paid from the Settlement Fund.

THE COURT'S FAIRNESS HEARING

18. *When and where will the Court decide whether to approve the Settlement?*

The Court will hold a hearing – which is called the Fairness Hearing – at the United States Courthouse, Room 210, 46 East Ohio Street, Indianapolis, Indiana, at _____ o'clock on _____. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will consider any objections, and listen to people who have made written objections and timely asked to speak at the hearing. After the Fairness Hearing, the Court will decide whether to approve the Settlement.

19. *Do I have to come to the hearing?*

You do not need to attend the Fairness Hearing, but you are welcome to come at your own expense. If you have sent a written objection, you do not need to be present for the Court to consider it.

20. *May I show up and speak at the hearing?*

If you have submitted a timely written objection to the Settlement and requested to be heard, the Court may allow you to speak at the Fairness Hearing. If you wish for your lawyer to speak for you, he or she must have submitted a timely appearance as provided above.

Reminder: If you have excluded yourself from the Settlement Class, you may not object to the Settlement and you may not speak at the Fairness Hearing

GETTING MORE INFORMATION

21. *How can I get more information?*

The description in this Notice is general and does not cover all of the issues and the proceedings thus far. More details about the Lawsuit and the Settlement, including a detailed definition of terms, are in the Settlement Agreement. You may review the Settlement Agreement and the court file during business hours at the Office of the Clerk of the United States District Court, United States Courthouse, Room 105, 46 East Ohio Street, Indianapolis, Indiana. You may also direct questions concerning the Settlement to Class Counsel at the address above. **Please do not contact the Court directly with any questions.**

Additional information about the Lawsuit and the Settlement may be obtained from the following Internet website: www.concreteantitrustsettlement.com

/s/ Sarah Evans Barker, Judge
United States District Court,
Southern District of Indiana

EXHIBIT “B”

Exhibit "B"

*****ATTENTION DIRECT PURCHASERS OF READY-MIXED CONCRETE*****

NOTICE OF CLASS ACTION SETTLEMENT WITH BUILDER'S DEFENDANTS

If you are or were a person or entity who purchased Ready-Mixed Concrete directly from Irving Materials, Inc., Prairie Material Sales, Inc. or its subsidiary Hoosier Concrete LLC, Builder's Concrete & Supply, Inc., Shelby Gravel, Inc., d/b/a Shelby Materials, American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, or MA-RI-AL Corporation d/b/a Beaver Materials Corporation (hereafter "Defendants"), which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004, you may be entitled to comment on, exclude yourself, or receive payments from the Settlement.

PLEASE READ THIS NOTICE CAREFULLY.

A Settlement has been reached between the Plaintiffs in *In re Ready-Mixed Concrete Antitrust Litigation*, Case No. 1:05-cv-00979-SEB-JMS (the "Lawsuit") and Builder's Concrete & Supply, Inc. ("BCS"), Gus B. ("Butch") Nuckols, III, and John J. Blatzheim (collectively the "Builder's Defendants"), and the proposed Settlement Class has been certified by the United States District Court for the Southern District of Indiana (the "Court").

WHAT THIS LAWSUIT IS ABOUT: The Lawsuit asserts that the Defendants conspired to raise, fix, maintain, or stabilize the price of Ready-Mixed Concrete sold from plants in the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana (the "Central Indiana Area") at artificially high levels, in violation of Section 1 of the Sherman Act, Title 15, United States Code, Section 1. The Defendants deny the allegations of the Lawsuit.

WHO IS IN THE CLASS: You are a member of the Proposed Settlement Class if you purchased Ready-Mixed Concrete directly from Irving Materials, Inc., Prairie Material Sales, Inc. or its subsidiary Hoosier Concrete LLC, Builder's Concrete & Supply, Inc., Shelby Gravel, Inc., d/b/a Shelby Materials, American Concrete Company, Inc., Hughey, Inc., d/b/a Carmel Concrete Products, or MA-RI-AL Corporation d/b/a Beaver Materials Corporation, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, and Shelby, in the State of Indiana, at any time from and including July 1, 2000 through and including May 25, 2004.

THE PROPOSED SETTLEMENT: The Builder's Defendants have agreed to pay the amount of \$5,515,000 ("Settlement Amount") pursuant to the terms of the Settlement. This settlement was achieved after more than four years of litigation and numerous negotiating sessions between Class Counsel and the lawyers for the Builder's Defendants. Because of the inherent risks of litigation and the limited financial ability of the Builder's Defendants to pay a settlement or judgment greater than that agreed upon, Plaintiffs believe that the Settlement provides a fair and efficient resolution of the Plaintiffs' and Class Members' claims against the Builder's Defendants.

Under the terms of the Settlement, the Builder's Defendants are required to deposit the Settlement Amount into a Settlement Fund in several installments. The first installment, in the amount of \$115,000, shall be paid no more than five (5) days after the Effective Date. The second installment, in the amount of \$1 million, shall be paid on December 31, 2010. Subsequent installments, each in the amount of \$1.1 million, shall be paid on December 31, 2011, December 31, 2012, December 31, 2013, and December 31, 2014. In the event the Builder's Defendants fail to make any of the required payments, the Builder's Defendants consent to the Court's entry of a Judgment against them, and in favor of the Settlement Class, in the amount of Ninety-Four Million, Six Hundred Fifty Thousand, Two Hundred Eighty-One Dollars (\$94,650,281). The Builder's Defendants may pre-pay any portion of the Settlement Amount that remains outstanding, by paying the present value of the amount to be pre-paid.

Class Counsel will seek Court permission to distribute the Settlement Fund to Class Members and to pay amounts approved by the Court for Class Counsel's attorneys' fees and reasonable expenses, reasonable future expenditures made or to be made by Class Counsel on behalf of Class Members to pursue the Lawsuit against Defendants other than the Builder's Defendants, notices to Class Members, and incentive payments to the class representatives. The Settlement does not prevent the Plaintiffs from seeking damages from other Defendants caused by the Builder's Defendants' alleged participation in the price-fixing conspiracy.

It is anticipated that the proposed distribution of amounts from the Settlement Fund to Class Members will be in direct proportion to the amount of a Class Member's purchases of Ready-Mixed Concrete from the Defendants at any time from July 1, 2000 through May 25, 2004.

PAYMENT OF ATTORNEYS' FEES AND COSTS: Class Counsel will file a petition with the Court no later than seven days prior to the Fairness Hearing asking for payment of attorneys' fees in the amount of 33 1/3 % of the Settlement Amount, and the reimbursement of reasonable expenses, to be paid from the Settlement Fund, which petition will be available on the settlement website. The Court may consider whether to approve the payment of attorneys' fees and expenses in this amount during the Fairness Hearing or at a later time determined by the Court, and the Builder's Defendants will not oppose the request for approval. These fees and expenses, however, will not be paid until time for appeal and/or appeal of this Settlement has been exhausted.

YOUR LEGAL RIGHTS AND OPTIONS IF YOU ARE A CLASS MEMBER: (YOU MUST CHOOSE BETWEEN ONE OF THESE OPTIONS)		DEADLINE
EXCLUDE YOURSELF	You may exclude yourself from the Settlement, in which case you will not be eligible to receive any payments from the Settlement that are approved by the Court, or to comment on the Settlement. A request for exclusion must: (i) state that you intend to "opt-out" or request "exclusion" from the Settlement Class against the Builder's Defendants; (ii) contain the full name and current address of the person or entity requesting exclusion; (iii) contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than an individual; (iv) contain the title of the Lawsuit: "In re Ready Mixed Concrete Antitrust Litigation;" (v) be signed by you; and (vi) be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____, to Class Counsel at the address below.	M/D/Y

DO NOTHING	If you choose to do nothing you will remain eligible to receive any payments from the Settlement that are approved by the Court. This will result in a release of any right you may have to pursue the same legal claims brought, or which could have been brought, in this case against the Builder's Defendants, but will not result in a release of any right you may have to pursue the same legal claims against the other Defendants.	N/A
OBJECT	You may write to the Court if you do not think the Settlement is fair. If you exclude yourself from the Settlement you may not object. To be considered, any objection must: (i) contain the full name and current address of the person objecting; (ii) contain the title and a statement of authority of any person objecting on behalf of an entity other than an individual; (iii) contain the title of the Lawsuit: "In re Ready Mixed Concrete Antitrust Litigation;" (iv) state the reasons for your objection; (v) be accompanied by any evidence, briefs, motions or other materials you intend to offer in support of your objection; (vi) be signed by you; and (vii) be sent by U.S. mail, first class and postage prepaid, with a postmark on or before _____, to Class Counsel, the Builder's Defendants' Counsel, and the Court, at the addresses below.	M/D/Y
GO TO A HEARING	If you object, you may also ask to speak in Court about the fairness of the Settlement.	M/D/Y

FAIRNESS HEARING: The Court will hold a hearing – which is called the Fairness Hearing – at the United States Courthouse, Room 210, 46 East Ohio Street, Indianapolis, Indiana, at ____ o'clock on _____. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. After the Fairness Hearing, the Court will decide whether to approve the Settlement. If you have submitted a timely written objection to the Settlement, you (or your lawyer) may be permitted to speak at the Fairness Hearing; however, you do not need to be present for the Court to consider your objection.

APPEAR BY COUNSEL: The law firms of Cohen & Malad, LLP and Susman Godfrey LLP have been appointed by the Court and represent you and other Settlement Class Members. These lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense. However, any lawyer intending to appear at the Fairness Hearing must be duly admitted to practice law before the United States District Court for the Southern District of Indiana and must file a written appearance no later than _____. Copies of the appearance must be served on Class Counsel and Counsel for the Builder's Defendants at the addresses included in this Notice in accordance with the Federal Rules of Civil Procedure.

CONTACT INFORMATION:

Class Counsel:	Counsel for the Builder's Defendants:	The Court:
Irwin B. Levin COHEN & MALAD, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204	Judy L. Woods BOSE MCKINNEY & EVANS, LLP 111 Monument Circle, Suite 2700 Indianapolis, IN 46204	The Honorable Sarah Evans Barker, Judge United States District Court, Southern District of Indiana United States Courthouse, Room 210 46 East Ohio Street Indianapolis, IN 46204

ADDITIONAL INFORMATION: The description in this Notice is general and does not cover all of the issues and the proceedings thus far. More details about the Lawsuit and the Settlement, including a detailed definition of terms, are in the Settlement Agreement. You may review the Settlement Agreement and the court file during business hours at the Office of the Clerk of the United States District Court, United States Courthouse, Room 105, 46 East Ohio Street, Indianapolis, Indiana. You may also direct questions concerning the Settlement to Class Counsel at the address above. **Please do not contact the Court directly with any questions.**

Additional information about the Lawsuit and the Settlement may be obtained from the following Internet website:

www.concreteantitrustsettlement.com

/s/ Sarah Evans Barker, Judge
United States District Court,
Southern District of Indiana

EXHIBIT “C”

Exhibit "C"

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

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

**ORDER PRELIMINARILY APPROVING SETTLEMENT,
CERTIFYING SETTLEMENT CLASS, AND DIRECTING NOTICE**

Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Wininger/
Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and
T&R Contractor, Inc. ("Plaintiffs"), by Co-Lead Counsel, and Defendants Builder's Concrete &
Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim (collectively the "Builder's
Defendants"), by counsel, have submitted the "Settlement Agreement with Builder's Concrete &
Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim" dated _____
("Settlement"), and have applied, pursuant to Rule 23 of the Federal Rules of Civil Procedure
("Rule 23"), for an order: (1) certifying a Settlement Class; (2) preliminarily approving the terms
and conditions set forth in the Settlement as fair, reasonable and adequate; (3) approving forms
and a program for notice to the Settlement Class; and (4) scheduling a hearing to consider final
approval of the Settlement. The Court has given due consideration to the terms of the
Settlement, the Exhibits to the Settlement, the submissions of the parties in support of
preliminary approval of the Settlement, and the record of proceedings herein, and now finds that
the proposed Settlement should be preliminarily approved pending notice to Class Members and
a final hearing on whether the Settlement is fair, reasonable and adequate to the Class.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement with Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim.

2. This Court has jurisdiction of the subject matter of this Action and jurisdiction of the Plaintiffs and Defendants in the above-captioned case (the "Parties").

3. This action may be maintained as a class action under Rule 23 for settlement purposes as to the Builder's Defendants on behalf of the following class (the "Settlement Class"):

All Persons who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, or Shelby, in the State of Indiana, at any time during the period from and including July 1, 2000 through and including May 25, 2004, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions.

4. The Court finds for purposes of settlement that the prerequisites to class certification under Rule 23(a) are satisfied, including:

a. The proposed Settlement Class numbers in the thousands and is so numerous that joinder of all members is impracticable;

b. There are questions of law and fact common to Plaintiffs and members of the Settlement Class, including whether the Builder's Defendants and the other Defendants participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of Ready-Mixed Concrete in the Central Indiana Area at artificially high levels, in violation of Section 1 of the Sherman Act, and whether members of the proposed Settlement Class were injured by the conspiracy;

c. The claims of the Plaintiffs are based on the same legal theory and are typical of the claims of the members of the Settlement Class; and

d. The Plaintiffs are represented by counsel experienced in complex litigation, have no interests in conflict with the interests of members of the proposed Settlement Class, have displayed their commitment to representing the interests of members of the Settlement Class during the course of litigation to date, and will fairly and adequately protect the interests of the Settlement Class.

5. The Court finds for purposes of settlement that the prerequisites to class certification under Rule 23(b)(3) are satisfied because questions of law and fact common to all members of the Settlement Class predominate over questions affecting only individual members of that Class, and certification of the Settlement Class is superior to other available methods for fair and efficient resolution of this controversy.

6. The Court appoints Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Wininger/ Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc. as Settlement Class Representatives. The Court further appoints Interim Co-Lead Counsel, Irwin B. Levin of Cohen & Malad, LLP, and Stephen D. Susman of Susman Godfrey LLP, as Settlement Class Counsel.

7. The Court finds that the terms of the Settlement in accordance with and as set forth in the Settlement Agreement are well within the range of a fair, reasonable and adequate settlement between the Settlement Class and the Builder's Defendants under the circumstances of this case. The Court therefore preliminarily approves the Settlement and directs the parties to the Settlement to perform and satisfy the terms and conditions of the Settlement Agreement that are triggered by such preliminary approval.

8. The proposed Notice of Class Action Settlement and Hearing in the forms attached to the Settlement Agreement as Exhibit “A” (for mailed notice) and Exhibit “B” (for publication notice), and the manner of mailing and distribution of such Notice, as set forth in Paragraph 10 below, are hereby approved by this Court as the best notice practicable to the Settlement Class. The form and manner of notice proposed in the Settlement comply with Rules 23(c) and (e) and the requirements of due process.

9. Pursuant to Rule 23(e), a final fairness hearing (the “Fairness Hearing”) shall be held before the undersigned at _____ o’clock, on _____, at the United States Courthouse, Room 210, 46 East Ohio Street, Indianapolis, Indiana, for the purpose of: (a) determining whether the Settlement is fair, reasonable and adequate and should be finally approved; (b) determining whether a Final Approval Order should be entered dismissing the claims of the Settlement Class members against the Builder’s Defendants; and (c) considering Class Counsel’s application for an award of attorneys’ fees, costs and expenses pursuant to Rule 23(h). The Court may adjourn, continue, and reconvene the Fairness Hearing pursuant to oral announcement without further notice to the Settlement Class, and the Court may consider and grant final approval of the Settlement, with or without minor modification and without further notice to the Settlement Class.

10. In accordance with the Settlement, Class Counsel shall: (a) mail or cause to be mailed to each Class Member for whom an address is available, as soon as practicable but no later than twenty (20) days from the date of this Order, a copy of the Mailed Notice in the form attached to the Settlement as Exhibit “A”; and (b) cause the Published Notice, attached to the Settlement as Exhibit “B”, to be published in two issues of the *Indianapolis Star*, no later than ten (10) days from the date of this Order.

11. Class Members shall be afforded an opportunity to request exclusion from the Class. A request for exclusion from the Class must: (i) state that the Class member intends to “opt-out” or request “exclusion” from the Settlement Class against the Builder’s Defendants; (ii) contain the full name and current address of the person or entity requesting exclusion; (iii) contain the title and a statement of authority of any person requesting exclusion from the Settlement Class on behalf of an entity other than an individual; (iv) contain the title of the Lawsuit: “In re Ready-Mixed Concrete Antitrust Litigation;” (v) be signed by the person or on behalf of the entity requesting exclusion; and (vi) be sent by U.S. mail, first class and postage prepaid, with a postmark on or before a date certain to be agreed by Plaintiffs and the Builder’s Defendants but no less than thirty (30) days after the date that Mailed Notice is issued (the “Exclusion Deadline”). Members of the Settlement Class who submit a timely and valid request for exclusion from the Settlement Class shall not participate in and shall not be bound by the Settlement. Members of the Settlement Class who do not timely and validly opt out of the Settlement Class in accordance with the Notice shall be bound by all determinations and judgments in the action concerning the Settlement, whether favorable or unfavorable.

12. Class Members who have not excluded themselves shall be afforded an opportunity to object to the terms of the Settlement. Any objection must: (i) contain the full name and current address of the person objecting; (ii) contain the title and a statement of authority of any person objecting on behalf of an entity other than an individual; (iii) contain the title of the Lawsuit: “In re Ready-Mixed Concrete Antitrust Litigation;” (iv) state the reasons for the Class member’s objection; (v) be accompanied by any evidence, briefs, motions or other materials the Class member intends to offer in support of the objection; (vi) be signed by or on behalf of the Class member; and (vii) be sent by U.S. mail, first class and postage prepaid, with a

postmark on or before a date certain to be agreed by Plaintiffs and the Builder's Defendants but no less than thirty (30) days after the date that Mailed Notice is issued (the "Objection Deadline").

13. Any member of the Settlement Class who does not make his, her, or its objection known in the manner provided in the Settlement and Notices shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement.

14. Any request for intervention in this action for purposes of commenting on or objecting to the Settlement must meet the requirements set forth above, including the deadline, for filing objections, must be accompanied by any evidence, briefs, motions or other materials the proposed intervenor intends to offer in support of the request for intervention, and must meet the requirements of the Federal Rules of Civil Procedure.

15. Any lawyer intending to appear at the Fairness Hearing must be authorized to represent a Settlement Class Member, must be duly admitted to practice law before the United States District Court for the Southern District of Indiana, and must file a written appearance no later than a date certain to be agreed by Plaintiffs and the Builder's Defendants but no less than thirty (30) days after the date that Mailed Notice is issued (the "Appearance Deadline"). Copies of the appearance must be served on Class Counsel and counsel for the Builder's Defendants in accordance with the Federal Rules of Civil Procedure.

16. Not more than ten (10) days after the Exclusion Deadline, Class Counsel shall file a Notice of Settlement Class Exclusions, listing the names of all persons or entities who timely and validly excluded themselves from the Settlement Class.

17. The Court shall have continuing jurisdiction over the Settlement Fund, including the investment, distribution and administration of the Settlement Fund, which shall at all times be maintained as a Qualified Settlement Fund within the meaning of Treasury Regulation 1.468B-1, as amended.

18. No less than seven (7) days prior to the Fairness Hearing, Class Counsel shall file a motion for approval of the attorneys' fees and reasonable expenses to be paid from the Settlement Fund under the terms of the Settlement once all appeals and/or the time for appeals of the Settlement have been exhausted, along with any supporting materials. Any decision by Class Counsel to defer seeking an award of attorneys' fees or reimbursement of expenses prior to or at the time of the Fairness Hearing on the Settlement shall not be deemed a waiver of the right of Class Counsel, under the Settlement or otherwise, to seek an award of attorneys' fees or reimbursement of expenses from the Settlement Fund at another time.

19. If the Settlement does not become effective or is rescinded by the Builder's Defendants or Plaintiffs pursuant to paragraphs 23, 24 and 30 of the Settlement Agreement, the Settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Plaintiffs and the Builder's Defendants in this action, and all Orders issued pursuant to the Settlement shall be vacated.

20. The Court may adjourn the date and/or time of the Fairness Hearing without further notice to the members of the Settlement Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

SO ORDERED.

Date

The Honorable Sarah Evans Barker, Judge
United States District Court,
Southern District of Indiana

EXHIBIT “D”

Exhibit "D"

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

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

FINAL APPROVAL ORDER

WHEREAS, Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Winger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc. ("Plaintiffs"), by Co-Lead Counsel, and Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim (collectively the "Builder's Defendants"), by counsel, entered into the "Settlement Agreement with Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim" dated _____ ("Settlement"); and

WHEREAS, the Plaintiffs and the Builder's Defendants applied pursuant to Rule 23 of the Federal Rules of Civil Procedure ("Rule 23") for an order certifying a Class for settlement purposes, for an order preliminarily approving the proposed Settlement and preliminarily approving the form and plan of notice as set forth in the Settlement;

WHEREAS, on _____, pursuant to 28 U.S.C. § 1715, the Builder's Defendants notified the United States Attorney General and the Attorney General of the State of Indiana of the proposed Settlement and more than 90 days have passed since that notice was given;

WHEREAS, on _____, 2010, the Court provisionally ordered that this Action may be settled as a class action on behalf of the following class (the “Settlement Class”):

All Persons who purchased Ready-Mixed Concrete directly from any of the Defendants or any of their co-conspirators, which was delivered from a facility within the Counties of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, or Shelby, in the State of Indiana, at any time during the period from and including July 1, 2000 through and including May 25, 2004, but excluding Defendants, their co-conspirators, their respective parents, subsidiaries, and affiliates, and federal, state, and local government entities and political subdivisions.

WHEREAS, on _____, 2010, the Court entered an order certifying the Settlement Class for purposes of settlement, preliminarily approving the Settlement, approving the forms of notice of the Settlement to Class Members, directing that appropriate notice of the Settlement be given to Class Members, and scheduling a hearing on final approval (the “Preliminary Approval Order”);

WHEREAS, in accordance with the Settlement Agreement and the Preliminary Approval Order: (1) on _____, 2010, Class Counsel caused the Notice of Class Action Settlement and Hearing in the form attached to the Settlement as Exhibit “A” (“Mailed Notice”) to be mailed by United States First Class Mail to all known members of the Settlement Class, and on _____ and _____, 2010, caused the Published Notice in the form attached to the Settlement as Exhibit “B” to be published in the *Indianapolis Star*; and (2); the Affidavit of Notice filed with this Court by Class Counsel demonstrates compliance with the Preliminary Approval Order with respect to the Mailed Notice and the Published Notice and, further, that the best notice practicable under the circumstances was, in fact, given;

WHEREAS, on _____, 2010, at _____, this Court held a hearing on whether the Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class (the “Fairness Hearing”); and

WHEREAS, based upon the foregoing, having heard the statements of counsel for the Plaintiffs and the Builder's Defendants, and of such persons as chose to appear at the Fairness Hearing; having considered all of the files, records and proceedings in the Action, the benefits to the Settlement Class under the Settlement and the risks, complexity, expense and probable duration of further litigation; and being fully advised in the premises;

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the "Settlement Agreement with Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim."
2. This Court has jurisdiction of the subject matter of this Action and jurisdiction of the Plaintiffs and Defendants in the above-captioned case (the "Parties").
3. The Court hereby adopts and reaffirms the findings and conclusions set forth in the Preliminary Approval Order.
4. The Plaintiffs and Class Counsel fairly and adequately represent the interests of the Settlement Class in connection with the Settlement.
5. The Settlement is the product of good faith, arm's-length negotiations by the Plaintiffs and Class Counsel, and the Builder's Defendants and its counsel, and the Settlement Class and the Builder's Defendants were represented by capable and experienced counsel.
6. The form, content and method of dissemination of the notice given to members of the Settlement Class, including both published notice and individual notice to all members of the Settlement Class who could be identified through reasonable effort, were adequate and reasonable, constituted the best notice practicable under the circumstances, and satisfied the requirements of Rules 23(c) and (e) and due process.

7. The Settlement Agreement with the Builder's Defendants is fair, reasonable and adequate and in the best interests of the Settlement Class, and is approved in all respects. The Court hereby directs the Plaintiffs, the Settlement Class, Class Counsel, the Builder's Defendants, the Builder's Defendants' counsel, Releasers and Releasees to effectuate the Settlement according to its terms. Pursuant to paragraph 25 of the Settlement, at an appropriate time following the Execution Date Class Counsel shall submit to the Court a Declaration and a Judgment Entry in the form attached thereto as Exhibit "E" or in the form attached to the thereto as Exhibit "F." The Court shall enter the Judgment Entry attached to the Settlement as Exhibit "E," dismissing the Released Claims against Builder's Defendants with prejudice, immediately upon the submission by Class Counsel of a verified Declaration stating that the Builder's Defendants have timely made all payment required under paragraph 22 of the Settlement. The Court shall enter the Judgment Entry attached to the Settlement as Exhibit "F," in favor of the Settlement Class and against the Builder's Defendants, in the amount of Ninety-Four Million, Six Hundred Fifty Thousand, Two Hundred Eighty-One Dollars (\$94,650,281), immediately upon the submission by Class Counsel of a verified Declaration stating that the Builder's Defendants have failed to make any payment required under paragraph 22 of this Agreement, which Judgment Entry shall not be subject to appeal or reconsideration by the Builder's Defendants.

8. The Court shall have continuing jurisdiction over the Settlement Fund, including the investment, distribution and administration of the Settlement Fund, which shall at all times be maintained as a Qualified Settlement Fund within the meaning of Treasury Regulation 1.468B-1, as amended.

9. The certification of the Settlement Class, under Rules 23(a), (b)(3) and (e), for purposes of effectuating the Settlement, is hereby confirmed.

10. Upon the occurrence of the Effective Date of the Settlement, the Builder's Defendants and the other the Releasees, and each of them, shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits and causes of action at law or in equity, pursuant to statute or otherwise, whether known or unknown, fraudulently concealed or otherwise concealed, whether the alleged damages have accrued or not accrued, whether class, individual or otherwise in nature, that Releasers, or any of them, ever had, now has, or hereafter can, shall, or may have on account of, related to, or arising out of or resulting from anything said, done or omitted, including but not limited to any alleged conspiracy, combination or agreement concerning the pricing, selling, discounting, marketing, manufacturing, or distributing of Ready-Mixed Concrete in or from the Central Indiana Area from the beginning of time through and during the Class Period, and including but not limited to any conduct alleged, and causes of action asserted, or that could have been alleged or asserted, in the Complaint filed in the Action or any amendment thereto, which arise under any federal or state antitrust or anticompetitive statute, law, rule, regulation, or common law doctrine, whether pursuant to a conspiracy or otherwise, including, without limitation, the Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.* and Indiana Code § 24-1, *et seq.* ("Released Claims"), provided, however, that nothing herein shall release any claim not associated with the Released Claims, including, but not limited to, personal injury, wrongful death, product defect or breach of contract, or account claims between buyers and sellers of Ready Mixed Concrete. The Releasers shall not, after the Effective Date of this Agreement, seek to recover against any of the Releasees for any of the Released Claims. No other Defendant in the above-captioned Action is released from any

claim of any kind whatsoever as a result of the Settlement, the Court's approval of the Settlement or the entry of this Order and Judgment.

11. As to the Builder's Defendants, but not as to any other Defendant, the above-captioned Action is hereby dismissed without assessment of costs or attorneys' fees against the Builder's Defendants.

12. Any claims against Releasors arising out of, relating to or in connection with the Action as against the Builder's Defendants are hereby released by the Releasees and their counsel, and they are permanently enjoined and barred from instituting, asserting or prosecuting any and all claims which the Releasees or their counsel or any of them, had, have or may in the future have against Releasors arising out of, relating to or in connection with the Action as against the Builder's Defendants.

13. The Court hereby reserves its exclusive, general, and continuing jurisdiction over the Plaintiffs, the Settlement Class, Class Counsel, the Builder's Defendants, the Builder's Defendants' counsel, Releasors, Releasees and the Settlement Fund established pursuant to the Court's Preliminary Approval Order as needed or appropriate in order to administer, supervise, implement, interpret, or enforce the Settlement in accordance with its terms, including the investment, conservation, protection of the Settlement Fund prior to distribution, and distribution of the Settlement Fund.

SO ORDERED.

Date

The Honorable Sarah Evans Barker, Judge
United States District Court,
Southern District of Indiana

EXHIBIT “E”

Exhibit "E"

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

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

JUDGMENT ENTRY

Class Counsel, on behalf of Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Winger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc. ("Plaintiffs") has submitted a verified declaration stating that Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim have timely made all payments required under paragraph 22 of the "Settlement Agreement with Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim" (the "Builder's Settlement"). Now, therefore, the Court, pursuant to paragraph 23 of the Builder's Settlement and the Final Approval Order dated _____, hereby enters a judgment of dismissal, with prejudice, of the Released Claims as defined in the Builder's Settlement, and of Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim.

**THERE BEING NO JUST REASON FOR DELAY, JUDGMENT IS ENTERED
ACCORDINGLY.**

SO ORDERED.

Date

The Honorable Sarah Evans Barker, Judge
United States District Court,
Southern District of Indiana

EXHIBIT ‘F’

Exhibit "F"

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

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

JUDGMENT ENTRY

Class Counsel, on behalf of Plaintiffs Kort Builders, Inc., Dan Grote, Cherokee Development, Inc., Winger/Stolberg Group, Inc., Marmax Construction, LLC, Boyle Construction Management, Inc., and T&R Contractor, Inc. ("Plaintiffs") has submitted a verified declaration stating that Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim have failed to make a payment required under paragraph 22 of the "Settlement Agreement with Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim" (the "Builder's Settlement"). Now, therefore, the Court, pursuant to paragraph 23 of the Builder's Settlement and the Final Approval Order dated _____, hereby enters Judgment against Builder's Concrete & Supply, Inc., Gus B. ("Butch") Nuckols, III, and John J. Blatzheim, jointly and severally, and in favor of the Settlement Class, in the amount of Ninety-Four Million, Six Hundred Fifty Thousand, Two Hundred Eighty-One Dollars (\$94,650,281).

SO ORDERED.

Date

The Honorable Sarah Evans Barker, Judge
United States District Court,
Southern District of Indiana