

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

**IN RE: IOWA READY-MIX  
CONCRETE ANTITRUST  
LITIGATION**

**No. 5:10-CV-04038-MWB  
(CONSOLIDATED CASES)**

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**DEFENDANTS GREAT LAKES CONCRETE, INC.'S AND KENT STEWART'S  
MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED  
CONSOLIDATED COMPLAINT**

COMES NOW Defendants Great Lakes Concrete, Inc. and Kent R. Stewart, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and hereby move the Court for an Order dismissing Plaintiffs' Second Amended Consolidated Class Action Complaint ("Second Amended Consolidated Complaint") for failing to state a claim upon which relief can be granted.

As set forth more fully in Defendant Great Lakes' and Defendant Stewart's brief, Great Lakes states as follows in support of this motion:

(1) Plaintiffs plead factually empty conclusions in Count II of the Second Amended Consolidated Complaint that in 2006 and 2007, Great Lakes conspired to set prices and price increases and to submit rigged bids for ready-mix concrete and reached agreements regarding the same.

(2) Because Count II of the Second Amended Consolidated Complaint does not set forth sufficient facts to make the existence of a conspiracy plausible in 2006 and 2007, none of the named Plaintiffs has standing to sue Defendants Great Lakes or Stewart.

WHEREFORE, Great Lakes respectfully requests that this Court grant this Motion to Dismiss Plaintiff's Second Amended Consolidated Class Action Complaint and all other relief to which it may be justly entitled.

Respectfully Submitted,

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#### **CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on May 16, 2011, I had the attached document electronically transmitted to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all registered counsel of record.

/s/ Mark C. Laughlin

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