

**IN THE UNITED STATES DISTRICT COURT  
FOR THE 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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**DEFENDANT GCC ALLIANCE CONCRETE, INC.'S  
MOTION TO DISMISS PLAINTIFFS' CONSOLIDATED COMPLAINT**

Defendant GCC Alliance Concrete, Inc. (“GCC Alliance”) moves to dismiss plaintiffs’ consolidated complaint under Federal Rule of Civil Procedure 12(b)(6).

As set out more fully in GCC Alliance’s Brief in Support, plaintiffs’ consolidated complaint should be dismissed because (1) plaintiffs have failed to sufficiently plead a factual basis to establish their standing to sue on behalf of an alleged class of all individuals and entities who purchased ready-mix concrete directly from any of the defendants and (2) plaintiffs allege no factual basis to support the alleged four-plus year conspiracy among all of the defendants covering the entire Iowa region. Indeed, the alleged conspiracy is both implausible and inconsistent with the three discrete and separate agreements, each of which was between only two parties, admitted in the plea agreements of defendants Steve VandeBrake and Kent Stewart.

For these reasons and those in its Brief in Support, GCC Alliance respectfully requests that the Court dismiss plaintiffs’ consolidated complaint. GCC Alliance requests 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 September 17, 2010, 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/ Matthew G. Whitaker

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