

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

IN RE: IOWA READY-MIX
CONCRETE ANTITRUST LITIGATION

No. C10-4038 MWB
(CONSOLIDATED CASES)

**BRIEF IN SUPPORT OF MOTION TO
DISMISS VS HOLDING COMPANY**

VS Holding Company joins in and relies on the brief being filed by GCC Alliance Concrete Inc. in support of its own Motion to Dismiss. All the arguments in that brief apply equally to Plaintiffs' claims against VS Holding Company.

These arguments apply with special force to VS Holding Company because Plaintiffs have not plead any specifics as to VS Holding Company being in the ready-mix concrete business. Indeed, public record within the judicial notice of this Court shows that the ready-mix business of Alliance Concrete Inc. was transferred to co-Defendant GCC on January 14, 2008. *See* Statement and public record documents attached hereto. It is thus uncontested on the public record (and not plead otherwise by the Plaintiffs) that the only period of time that an employee of VS Holding Company could have engaged in any combination or conspiracy would have been during calendar years 2006 and 2007, and the Consolidated Complaint presents nothing specific to that particular time period.

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2010, I presented the foregoing to the Clerk of the Court for filing and uploading into the ECF system. Notice of this filing will be sent to counsel of record by operation of the Court's ECF system.

/s/Hayward L. Draper
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