

**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)**

**UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENTS AND
PRELIMINARY CERTIFICATION OF SETTLEMENT CLASSES**

Plaintiffs Randy Waterman, Frank Audino Construction, Inc., Sioux City Engineering Co., the City of Le Mars, Iowa, Holtze Construction Company and Brown Commercial Construction, Inc. (collectively “Plaintiffs”), by Interim Co-Lead Counsel, respectfully move this Court for the entry of an Order for each of the three Settlement Agreements recently executed by the parties: (i) preliminarily approving the Settlement Agreement; (ii) preliminarily certifying the proposed Settlement Class; and (iii) approving and directing notice to members of the Settlement Class. In support of this Motion, the Plaintiffs state as follows:

1. On July 8, 2011, the parties executed the following three settlement agreements resolving all of the claims asserted in this case (collectively the “Settlements”):
 - The Settlement Agreement with Tri-State Ready Mix, Inc., VS Holding Company, f/k/a Alliance Concrete, Inc., GCC Alliance Concrete, Inc., Chad Van Zee and Steven Keith VandeBrake (“Alliance/Tri-State Settlement”), which resolves the claims of a proposed direct purchaser Alliance/Tri-State Settlement Class in exchange for payments by Alliance/Tri-State Settling Defendants in the

combined amount of \$10,730,335. A copy of the Alliance/Tri-State Settlement is submitted herewith as Exhibit “1.”

- The Settlement Agreement with Great Lakes Concrete, Inc., VS Holding Company, f/k/a Alliance Concrete, Inc., GCC Alliance Concrete, Inc., Kent Robert Stewart and Steven Keith VandeBrake (“Alliance/Great Lakes Settlement”), which resolves the claims of a proposed direct purchaser Alliance/Great Lakes Settlement Class in exchange for payments by Alliance/Great Lakes Settling Defendants in the combined amount of \$5,121,412. A copy of the Alliance/Great Lakes Settlement is submitted herewith as Exhibit “2.”
- The Settlement Agreement with Siouxland Concrete Company, VS Holding Company, f/k/a Alliance Concrete, Inc., GCC Alliance Concrete, Inc. and Steven Keith VandeBrake (“Alliance/Siouxland Settlement”), which resolves the claims of a proposed direct purchaser Alliance/Siouxland Settlement Class in exchange for payments by Alliance/Siouxland Settling Defendants in the combined amount of \$2,648,253. A copy of the Alliance/Siouxland Settlement is submitted herewith as Exhibit “3.”

2. Each of the Settlements was negotiated by well-informed counsel, and followed extensive criminal sentencing proceedings, comprehensive document and data production, multiple depositions, and a thorough expert analysis of the conspiracies, data, market and damages. The Settlements provide substantial monetary benefits to proposed Settlement Class members despite significant risks of continued litigation, and easily fall within the range of likely final approval.

3. Each of the Settlements was also the result of intensive, arms-length negotiation, including several full-day mediation sessions with The Honorable James M. Rosenbaum (Ret.), additional phone mediation sessions with Magistrate Judge Paul A. Zoss, and direct discussions among counsel for the parties. The resulting Settlement Agreements are structurally and procedurally fair, with each Settlement limited to compromising the claims of one of the three plaintiff classes proposed in the Plaintiffs' Second Amended Consolidated Complaint, and with each Settlement requiring those procedural safeguards for Settlement Class members that are required by Rule 23 and due process.

4. Pursuant to the Settlements the Plaintiffs, with the stipulation of the Settling Defendants as set forth in the Settlements, respectfully move the Court for the entry of an Order for each Settlement, in the form of the proposed Preliminary Approval Order attached to the Settlement as Exhibit "C," which:

- a. Certifies as to the Settling Defendants, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and the terms of the Settlement, the Settlement Class to which the Plaintiffs and the Settling Defendants have stipulated in the Settlement;
- b. Preliminarily approves the Settlement as fair, reasonable and adequate to the Plaintiffs and members of the Settlement Class;
- c. Approves and directs, as the best notice practicable under the circumstances: (i) mailed notice to Settlement Class members in the form attached to the Settlement as Exhibit "A" and (ii) published notice to Settlement Class members in the form attached to the Settlement as Exhibit "B"; and

d. Schedules a hearing on final approval of this Agreement at the convenience of the Court.

5. Plaintiffs have submitted herewith their Brief in Support of Unopposed Motion for Preliminary Approval of Settlement Agreements and Preliminary Certification of Settlement Classes and the Declaration of Irwin B. Levin in Support of Unopposed Motion for Preliminary Approval of Settlement Agreements and Preliminary Certification of Settlement Classes. The Brief, at 25 pages, is filed under a separate Motion for Leave to File Brief in Excess of 20-Page Limit.

WHEREFORE, Plaintiffs respectfully request the Court's preliminary approval of the Settlements, preliminary certification of the Settlement Classes, approval of the forms and methods of notice of the Settlements to members of the Settlement Classes, and approval and entry of the Preliminary Approval Orders in the form attached to the Settlements as Exhibit "C" and submitted herewith.

Respectfully submitted,

/s/ Irwin B. Levin

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Plaintiffs' Liaison Counsel

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2011, the attached document was 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.

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