

**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	)	
	)	

**PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF  
SETTLEMENT AGREEMENT WITH DEFENDANT  
AMERICAN CONCRETE COMPANY, INC.**

The 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. (collectively "Plaintiffs"), by Interim Co-Lead Counsel, respectfully move this Court for an Order preliminarily approving the Settlement Agreement With American Concrete Company, Inc. ("American Settlement"), preliminarily certifying a Plaintiff Settlement Class, and directing notice of the American Settlement to members of the Settlement Class. In support of this Motion, Plaintiffs state as follows:

1. On October 26, 2007, the Plaintiffs, through Interim Co-Lead Counsel, executed a settlement agreement with Defendant American Concrete Company, Inc. ("American") resolving the claims asserted in this action by the Plaintiffs and proposed Plaintiff Class against American. A copy of the American Settlement is attached hereto and marked Exhibit "A".

2. The American Settlement was achieved following extensive arms-length negotiations between the counsel for Plaintiff and counsel for American, confers substantial benefits on the Settlement Class, and is within the range of reasonableness.

3. Pursuant to the American Settlement, Plaintiffs, with the stipulation of American as set forth in the American Settlement, respectfully move the Court for the entry of an Order, in the form of the proposed Preliminary Approval Order attached to the American Settlement as Exhibit “C,” which:

- a. Certifies as to American, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and the terms of the American Settlement, the Settlement Class to which the Plaintiffs and American have stipulated in the American Settlement;
- b. Preliminarily approves the American 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 American Settlement as Exhibit “A” and (ii) published notice to Settlement Class members in the form attached to the American Settlement as Exhibit “B”; and
- d. Schedules a hearing on final approval of this Agreement at the convenience of the Court.

4. Plaintiffs have submitted herewith their Memorandum in Support of Motion for Preliminary Approval of Settlement Agreement With Defendant American Concrete Company, Inc.

WHEREFORE, the Plaintiffs respectfully request the preliminary approval the Settlement Agreement With American Concrete Company, Inc., preliminary certification of the Settlement Class, approval of the form and method of notice of the American Settlement to members of the Settlement Class, and approval and entry of the Preliminary Approval Order submitted herewith.

Dated: October 29, 2007

Respectfully submitted,

/s/ Irwin B. Levin

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## CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2007, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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