

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE DUCTILE IRON PIPE FITTINGS
("DIPF") INDIRECT PURCHASER
ANTITRUST LITIGATION

)
) Civil Action No.: 3:12-cv-00169
) (AET)(LHG)
)

THIS FILING RELATES TO:

STATE OF INDIANA, by Attorney General
Greg Zoeller,

)
) Civil Action No.: 3:12-cv-06667
) (AET)(LHG)
)

Plaintiff,

v.

McWANE INC., SIGMA CORPORATION,
and STAR PIPE PRODUCTS, LTD.,

Defendants.

**DEFENDANT MCWANE, INC.'S ANSWER
TO STATE OF INDIANA'S AMENDED COMPLAINT**

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Defendant McWane, Inc. (“McWane”) objects to the separate assertion of a complaint by the State of Indiana as being directly contrary to the consolidation entered by the Court in *In re Ductile Iron Pipe Fittings (“DIPF”) Indirect Purchaser Antitrust Litigation*, Civ. No. 12-169 on June 26, 2013. Subject to this objection, McWane, Inc. hereby responds to the State of Indiana’s Amended Complaint as follows:

1. The allegations in paragraph 1 contain legal conclusions and argument to which no response is required. To the extent a response may be required, McWane denies the allegations in paragraph 1.

2. McWane admits the allegations in the first sentence of paragraph 2. The remaining allegations in paragraph 2 contain legal conclusions and argument to which no response is required. To the extent a response may be required, McWane admits on information and belief that McWane, Sigma, and Star were among the primary sellers, importers, and manufacturers of DIPF in the 2008-2010 time period. McWane lacks sufficient information to admit or deny the remaining allegations of paragraph 3, and avers on information and belief that wholesale distributors have substantial market power in relation to suppliers of DIPF.

3. McWane denies the allegations in paragraph 3.

4. McWane denies the allegations in paragraph 4.

5. McWane admits that Congress passed the American Recovery and Reinvestment Act of 2009 (ARRA) which established certain funds available for potential use in water infrastructure projects using domestically produced materials. Such materials could include, among other things, domestically-produced DIPF. McWane denies that there is or was a separate “Domestic DIPF Market,” as domestic and non-domestic DIPF are functionally equivalent and interchangeable. McWane thus denies that it possessed a monopoly in any such alleged market. The remaining allegations of paragraph 5 are directed to parties other than McWane and concern the opinions and perceptions of parties other than McWane, requiring no

response from McWane. To the extent a response is required, McWane admits that Star announced it would sell domestically-manufactured DIPF in June, 2009 and began selling domestically-manufactured DIPF later that year. On information and belief, McWane denies that Sigma took the necessary material steps to begin manufacturing domestically-produced DIPF during the ARRA period. Except to the extent expressly admitted herein, McWane denies the allegations in paragraph 5.

6. McWane denies the allegations in paragraph 6.

7. McWane denies the allegations in paragraph 7.

8. The allegations in paragraph 8 contain legal conclusions and argument, to which no response is required. To the extent a response is required, McWane admits that the FTC launched an investigation of McWane's practices with regard to the DIPF market and filed an administrative complaint on January 4, 2012 against McWane, which McWane vigorously denied and litigated. McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy. McWane avers that the Administrative Law Judge rejected Complaint Counsel's conspiracy claims, finding the allegations "weak," "unpersuasive," "strained," "unsupported," "pure speculation" and "without merit." To the extent the allegations of paragraph 8 are directed to parties other than McWane, no response from McWane is required. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 8.

9. McWane lacks sufficient knowledge to admit or deny the allegations in paragraph 9.

10. The allegations in paragraph 10 contain legal conclusions and argument to which no response is required. To the extent a response may be required, McWane denies the allegations in paragraph 10, to the extent those allegations are directed to McWane, and specifically denies (i) that McWane engaged in a conspiracy or any other unlawful conduct, and

(ii) that any plaintiff has been injured. To the extent the allegations in paragraph 10 are directed to other Defendants, McWane lacks sufficient knowledge at this time to admit or deny the allegations, and therefore denies them.

11. The claim for injunctive relief was dismissed in its entirety in the Court's October 2, 2013 order, and therefore, McWane only responds to the allegations in paragraph 11 as to any remaining causes of action. The allegations in paragraph 11 contain legal conclusions and argument to which no response is required. To the extent a response may be required, McWane denies the allegations in paragraph 11. To the extent the allegations in paragraph 10 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

12. The allegations in paragraph 12 relating to whether "[t]his Court has jurisdiction over the subject matter of this action" are legal conclusions to which no response is required. To the extent a response may be required, McWane denies the allegations contained in paragraph 12, and specifically denies that this Court has subject matter jurisdiction pursuant to the Clayton Act or the Sherman Act, as those claims have been dismissed pursuant to this Court's October 2, 2013 order.

13. The allegations in paragraph 13 relating to whether "[v]enue is proper in this District" are legal conclusions to which no response is required. To the extent a response may be required, McWane denies the allegations contained in paragraph 13.

14. The allegations in paragraph 14 relating to whether "[t]his Court has *in personam* personal jurisdiction over each of the Defendants" are legal conclusions to which no response is required. To the extent a response may be required, McWane denies the allegations contained in paragraph 14 as to McWane, and specifically denies the allegation that it "committed acts in this district in furtherance of the conspiracy alleged herein and directed the unlawful conspiracy through persons and entities located in this district, including fixing the prices of DIPF sold to

purchasers in this district.” McWane lacks sufficient knowledge at this time to admit or deny the allegations contained in paragraph 14 regarding other Defendants, and therefore denies them.

15. McWane lacks sufficient knowledge at this time to admit or deny the allegations contained in paragraph 15, which relate the plaintiff. McWane denies that it committed any unlawful conduct or that Indiana was injured by any conduct of McWane.

16. McWane admits that it is a Delaware corporation with its principal place of business in Birmingham, Alabama. McWane admits that Clow (located in Coshocton, Ohio), Tyler Pipe (located in Tyler, Texas), and Tyler Union (whose sole remaining domestic foundry is located in Anniston, Alabama), are wholly owned divisions of McWane, and that each division manufactured, imported, marketed or sold products for the waterworks industry in the United States. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 16.

17. McWane lacks sufficient knowledge to admit or deny the allegations in paragraph 17.

18. McWane lacks sufficient knowledge to admit or deny the allegations in paragraph 18.

19. Paragraph 19 contains a definition of a reference within Indiana’s Complaint that does not require a response.

20. Paragraph 20 states a legal conclusion to which no response is required. To the extent a response is deemed necessary, McWane denies the allegations of paragraph 20 as to McWane. To the extent the allegations of paragraph 20 are directed to parties other than McWane, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

21. Paragraph 21 states a legal conclusion to which no response is required. To the extent a response is deemed necessary, McWane denies the allegations of paragraph 21 as to

McWane. To the extent the allegations of paragraph 21 are directed to parties other than McWane, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

22. Paragraph 22 states a legal conclusion to which no response is required. To the extent a response is deemed necessary, McWane denies the allegations of paragraph 22 as to McWane. To the extent the allegations of paragraph 22 are directed to parties other than McWane, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them. No other Defendant acted as a principal or agent of McWane.

23. Paragraph 23 states a legal conclusion to which no response is required. To the extent a response is deemed required, McWane admits that it produced and sold DIPF in the United States from 2008 to 2012. McWane lacks sufficient knowledge to admit or deny the allegations in paragraph 23 as to others.

24. Paragraph 24 states a legal conclusion to which no response is required. To the extent a response is deemed required, McWane denies the allegations in paragraph 24.

25. McWane admits that ductile iron pipe is manufactured according to standards set by the American National Standards Institute/American Waste Water Association (“AWWA”). McWane lacks sufficient knowledge to admit or deny the remaining allegations in paragraph 25.

26. McWane admits that the allegations contained in the first sentence of paragraph 26 provide a generally accurate description of the matters referenced therein. McWane denies the remaining allegations in paragraph 26.

27. McWane admits that the allegations in paragraph 27 provide a generally accurate description of the matters referenced therein.

28. McWane admits that the allegations contained in paragraph 28 provide a generally accurate description of the matters referenced therein.

29. McWane admits the allegations in paragraph 29.

30. McWane denies the allegations in paragraph 30.

31. McWane admits that ARRA was enacted in 2009. The remaining allegations in paragraph 31 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane denies that a separate “market for domestic DIPF” exists. McWane denies the remaining allegations in paragraph 31.

32. The allegations in paragraph 32 contain legal conclusions and argument, including use of the argumentative term “Domestic DIPF Market,” to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane denies that a separate “Domestic DIPF Market” exists, and denies that it possessed monopoly power in any market. McWane denies the remaining allegations in paragraph 32.

33. McWane denies the allegations in paragraph 33.

34. McWane denies the allegations in paragraph 34.

35. McWane denies the allegations in paragraph 35.

36. The allegations in paragraph 36 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane admits that DIPF are commodity products, which are produced to industry-wide standards, but denies the remaining allegations of paragraph 36.

37. The allegations in paragraph 37 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane admits on information and belief that in 2008 the Defendants collectively accounted for more than 90% of DIPF sales in the United States. McWane denies the remaining allegations of paragraph 37, and avers on information and belief that wholesale distributors have substantial market power in relation to suppliers of DIPF.

38. The allegations in paragraph 38 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane denies the allegations of paragraph 38.

39. The allegations in paragraph 39 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane admits that DIPF are a relatively small portion of the cost of materials of a typical waterworks project, and there are no widely used substitutes for DIPF. McWane denies the remaining allegations in paragraph 39.

40. The allegations in paragraph 40 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane admits that it independently publishes a list price and regional multipliers for its DIPF. McWane admits on information and belief that Sigma and Star, at the insistence of their customers, often – but not always – had similar published price lists and multipliers for DIPF. McWane avers that the vast majority if not all of its DIPF is not sold at its published prices, but at discounts – which take a variety of forms – off its published price lists and multipliers. Except to the extent expressly admitted herein, McWane denies the allegations in paragraph 40.

41. McWane denies the allegations in paragraph 41.

42. McWane denies the allegations in paragraph 42.

43. McWane denies the allegations in paragraph 43.

44. McWane admits that it independently published a multiplier change for its DIPF in January 2008, through letters to its customers which speak for themselves, but otherwise denies the allegations in paragraph 44.

45. The allegations of paragraph 45 are directed to parties other than McWane and concern the actions of parties other than McWane, therefore requiring no response from

McWane.

46. The allegations in paragraph 46 contain legal conclusions and argument, including use of the undefined and argumentative term “adopted,” to which no response is required. To the extent the allegations of paragraph 46 relate to McWane, McWane denies the allegations of paragraph 46. To the extent the allegations of paragraph 46 relate to the actions and perceptions of other parties, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

47. The allegations in paragraph 47 contain legal conclusions and argument, including use of the undefined and argumentative phrase “invitation to collude,” to which no response is required. To the extent the allegations of paragraph 47 are directed to McWane, McWane denies the allegations of paragraph 47, and specifically denies that it invited any party to “collude.” To the extent the allegations in paragraph 47 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them. To the extent the allegations in paragraph 47 attempt to paraphrase and mischaracterize unidentified “documents obtained by the FTC,” McWane lacks sufficient information at this time to admit or deny the allegations relating to the unidentified documents, and therefore denies them.

48. The allegations in paragraph 48 contain legal conclusions and argument, including use of the undefined and argumentative phrase “the curtailment of Project Pricing,” to which no response is required. Because the allegations in paragraph 48 relate to the actions and perceptions of another party, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them. To the extent the allegations of paragraph 48 are directed to McWane, McWane denies the allegations of paragraph 48, and specifically denies any so-called “curtailment of Project Pricing” ever occurred. To the extent the allegations in paragraph 48 attempt to paraphrase an unidentified document, McWane lacks sufficient

information at this time to admit or deny the allegations relating to the unidentified document, and therefore denies them.

49. McWane denies the allegations in paragraph 49.

50. McWane denies the allegations in paragraph 50 as to McWane. To the extent the allegations in paragraph 50 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

51. The allegations in paragraph 51 contain legal conclusions and argument, including use of the undefined and argumentative phrase “exchange of information,” to which no response is required. To the extent the allegations of paragraph 51 are directed to McWane, McWane denies them. To the extent the allegations in paragraph 51 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

52. The allegations in paragraph 52 contain legal conclusions and argument to which no response is required. To the extent the allegations of paragraph 52 are directed to McWane, McWane denies them, and specifically denies that it “communicated” a “proposal” to Sigma and Star. To the extent the allegations in paragraph 52 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

53. The allegations in paragraph 53 contain legal conclusions and argument, including use of the undefined and argumentative terms “accepted” and “offer,” to which no response is required. To the extent the allegations of paragraph 53 are directed to McWane, McWane denies the allegations of paragraph 53, and specifically denies that it made any “offer” to Sigma and Star. To the extent the allegations in paragraph 53 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

54. McWane admits that it independently published a multiplier change for its DIPF in June 2008, but otherwise denies the allegations in paragraph 54 as to McWane. To the extent the allegations in paragraph 54 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

55. McWane denies the allegations in paragraph 55.

56. The allegations in paragraph 56 contain legal conclusions and argument, including use of the undefined and argumentative phrase “DIFRA information exchange,” to which no response is required. To the extent the allegations of paragraph 56 are directed to McWane, McWane admits that it sent limited data regarding tons of its fittings previously shipped, in aggregated product categories, to an independent accounting firm. McWane denies the remaining allegations of paragraph 56 as to McWane. To the extent the allegations in paragraph 56 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

57. The allegations in paragraph 57 contain legal conclusions and argument, including use of the undefined and argumentative phrase “DIFRA information exchange,” to which no response is required. Further, the allegations in paragraph 57 are premature to the extent they call for expert economic analysis. To the extent the allegations of paragraph 57 are directed to McWane, McWane denies the allegations of paragraph 57, and specifically denies that it engaged in any “price coordination” on the pricing of DIPF. To the extent the allegations in paragraph 57 relate to the actions and perceptions of other parties, McWane lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

58. McWane admits that it independently published a new price list for its DIPF in April 2009, but otherwise denies the allegations in paragraph 58 as to McWane. To the extent the allegations in paragraph 58 relate to the actions and perceptions of other parties, McWane

lacks sufficient information at this time to admit or deny those allegations, and therefore denies them.

59. McWane denies the allegations in paragraph 59 as to McWane, and specifically denied that McWane provided Star “assurances” of any kind. To the extent the allegations in paragraph 59 relate to the actions and perceptions of other parties, McWane lacks information to admit or deny those allegations, and therefore denies them.

60. McWane denies the allegations in paragraph 60 as to McWane. To the extent the allegations in paragraph 60 relate to the actions and perceptions of other parties, McWane lacks information to admit or deny those allegations, and therefore denies them.

61. McWane denies the allegations in paragraph 61 as to McWane. To the extent the allegations in paragraph 61 relate to the actions and perceptions of other parties, McWane lacks information to admit or deny those allegations, and therefore denies them.

62. McWane denies the allegations in paragraph 62 as to McWane. To the extent the allegations in paragraph 62 relate to the actions and perceptions of other parties, McWane lacks information to admit or deny those allegations, and therefore denies them.

63. McWane denies the allegations in paragraph 63.

64. McWane denies the allegations in paragraph 64.

65. McWane lacks sufficient information to admit or deny the allegations in paragraph 65, which pertain to parties other than McWane, and therefore denies them.

66. McWane lacks sufficient information to admit or deny the allegations in paragraph 66, which pertain to parties other than McWane, and therefore denies them.

67. McWane lacks sufficient information at this time to admit or deny the allegations in the first sentence of paragraph 67. McWane denies the remaining allegations in paragraph 67, and specifically denies that it came to any agreement with Sigma or Star regarding the pricing of DIPF.

68. McWane admits that it independently published a new multiplier list for its DIPF in June 2010, but otherwise denies the allegations in paragraph 68.

69. McWane lacks sufficient information to admit or deny the allegations in paragraph 69, which pertain to parties other than McWane, and therefore denies them.

70. McWane lacks sufficient information to admit or deny the allegations in paragraph 70, which pertain to parties other than McWane, and therefore denies them.

71. McWane denies the allegations in paragraph 71.

72. McWane admits that Congress passed the American Recovery and Reinvestment Act of 2009 (ARRA) which established certain funds available for potential use in water infrastructure projects using domestically produced materials. Such materials could include, among other things, domestically-produced DIPF. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 72.

73. McWane lacks sufficient information to admit or deny the allegations in paragraph 73, which pertain to parties other than McWane, and therefore denies them.

74. The allegations in paragraph 74 contain legal conclusions and argument, to which no response is required. To the extent a response is required, McWane lacks sufficient information at this time to admit or deny the allegations in paragraph 74.

75. McWane denies the allegations in paragraph 75.

76. McWane denies the allegations in paragraph 76.

77. McWane denies the allegations in paragraph 77.

78. McWane denies the allegations in paragraph 78.

79. McWane denies the allegations in paragraph 79.

80. The allegations of paragraph 80 are directed to parties other than McWane and concern the opinions, actions, and perceptions of parties other than McWane, therefore requiring no response from McWane. To the extent a response is required, McWane denies, on

information and belief, that Sigma took the necessary material steps to begin manufacturing domestically-produced DIPF during the ARRA period. McWane also denies that a separate “Domestic DIPF market” exists.

81. McWane denies the allegations in paragraph 81.

82. McWane admits that it and Sigma executed a Master Distribution Agreement (MDA) dated September 17, 2009, the terms of which speak for themselves. Except to the extent expressly admitted herein, McWane denies the allegations in paragraph 82.

83. McWane denies the allegations in paragraph 83.

84. McWane denies the allegations in paragraph 84, as the terms of the MDA speak for themselves.

85. The allegations in paragraph 85 contain legal conclusions and argument to which no response is required, and are premature to the extent they call for expert analysis. To the extent a response is required, McWane denies the allegations in paragraph 85, including the existence of a separate “Domestic DIPF Market,” and affirmatively avers, on information and belief, that Sigma had taken no material steps to begin manufacturing domestically-produced DIPF.

86. McWane denies the allegations in paragraph 86.

87. McWane denies the allegations in paragraph 87.

88. McWane admits that Star announced in June, 2009 that it would sell domestically-manufactured DIPF. The remaining allegations in paragraph 88 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the remaining allegations in paragraph 88, including the existence of a separate “Domestic DIPF Market.”

89. The allegations in paragraph 89 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in

paragraph 89, including the existence of a separate “Domestic DIPF Market.”

90. The allegations in paragraph 90 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 90.

91. The allegations in paragraph 91 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 91.

92. The allegations in paragraph 92 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 92.

93. The allegations in paragraph 93 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 93.

94. The allegations in paragraph 94 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 94.

95. The allegations in paragraph 95 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 95.

96. The allegations in paragraph 96 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 96.

97. The allegations in paragraph 97 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 97.

98. McWane lacks sufficient information to admit or deny the allegations in paragraph 98, which pertain to parties other than McWane, and therefore denies them.

99. McWane lacks sufficient information to admit or deny the allegations in paragraph 99, which pertain to parties other than McWane, and therefore denies them.

100. McWane lacks sufficient information to admit or deny the allegations in paragraph 100, which pertain to parties other than McWane, and therefore denies them.

101. McWane lacks sufficient information to admit or deny the allegations in paragraph 101, which pertain to parties other than McWane, and therefore denies them.

102. McWane lacks sufficient information to admit or deny the allegations in paragraph 102, which pertain to parties other than McWane, and therefore denies them.

103. McWane lacks sufficient information to admit or deny the allegations in paragraph 103, which pertain to parties other than McWane, and therefore denies them.

104. McWane lacks sufficient information to admit or deny the allegations in paragraph 104, which pertain to parties other than McWane, and therefore denies them.

105. McWane lacks sufficient information to admit or deny the allegations in paragraph 105, which pertain to parties other than McWane, and therefore denies them.

106. McWane lacks sufficient information to admit or deny the allegations in paragraph 106, which pertain to parties other than McWane, and therefore denies them.

107. McWane lacks sufficient information to admit or deny the allegations in paragraph 107, which pertain to parties other than McWane, and therefore denies them.

108. McWane lacks sufficient information to admit or deny the allegations in paragraph 108, which pertain to parties other than McWane, and therefore denies them.

109. McWane lacks sufficient information to admit or deny the allegations in paragraph 109, which pertain to parties other than McWane, and therefore denies them.

110. The allegations in paragraph 110 contain legal conclusions and argument to which

no response is required. To the extent a response is required, McWane denies the allegations in paragraph 110.

111. The allegations in paragraph 111 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 111.

112. The allegations in paragraph 112 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 112.

113. The allegations in paragraph 113 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 113.

114. The allegations in paragraph 114 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 114.

115. The allegations in paragraph 115 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 115.

116. The allegations in paragraph 116 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 116.

117. The allegations in paragraph 117 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 117.

118. The allegations in paragraph 118 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in

paragraph 118.

119. The allegations in paragraph 119 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 119.

120. The allegations in paragraph 120 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 120.

121. The allegations in paragraph 121 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 121.

122. The allegations in paragraph 122 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 122.

123. The allegations in paragraph 123 contain legal conclusions and argument, to which no response is required. To the extent a response is required, McWane admits that the FTC launched an investigation of McWane's practices with regard to the DIPF market and filed an administrative complaint on January 4, 2012, which McWane vigorously denied and litigated, against McWane. McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy. McWane further avers that the Administrative Law Judge rejected Complaint Counsel's conspiracy claims, finding the allegations "weak," "unpersuasive," "strained," "unsupported," "pure speculation" and "without merit." To the extent the allegations of paragraph 123 are directed to parties other than McWane, no response from McWane is required. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 123.

124. The allegations in paragraph 124 contain legal conclusions and argument, to

which no response is required. To the extent a response is required, McWane admits that the FTC launched an investigation of McWane's practices with regard to the DIPF market and filed an administrative complaint on January 4, 2012, which McWane vigorously denied and litigated, against McWane. McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy. McWane further avers that the Administrative Law Judge rejected Complaint Counsel's conspiracy claims, finding the allegations "weak," "unpersuasive," "strained," "unsupported," "pure speculation" and "without merit." To the extent the allegations of paragraph 124 are directed to parties other than McWane, no response from McWane is required. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 124.

125. The allegations in paragraph 125 contain legal conclusions and argument, to which no response is required. To the extent a response is required, McWane admits that the FTC launched an investigation of McWane's practices with regard to the DIPF market and filed an administrative complaint on January 4, 2012, which McWane vigorously denied and litigated, against McWane. McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy. McWane further avers that the Administrative Law Judge rejected Complaint Counsel's conspiracy claims, finding the allegations "weak," "unpersuasive," "strained," "unsupported," "pure speculation" and "without merit." To the extent the allegations of paragraph 125 are directed to parties other than McWane, no response from McWane is required. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 125.

126. The allegations in paragraph 126 contain legal conclusions and argument, to which no response is required. To the extent a response is required, McWane admits that the FTC launched an investigation of McWane's practices with regard to the DIPF market and filed an administrative complaint on January 4, 2012, which McWane vigorously denied and litigated,

against McWane. McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy. McWane further avers that the Administrative Law Judge rejected Complaint Counsel's conspiracy claims, finding the allegations "weak," "unpersuasive," "strained," "unsupported," "pure speculation" and "without merit." To the extent the allegations of paragraph 126 are directed to parties other than McWane, no response from McWane is required. Except to the extent expressly admitted herein, McWane denies the allegations of paragraph 126.

127. The allegations in paragraph 127 contain legal conclusions and argument, and are directed to parties other than McWane, therefore requiring no response from McWane. The terms of Sigma's Consent Agreement speak for themselves. To the extent a response is required, McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy with Sigma or any other party.

128. The allegations in paragraph 128 contain legal conclusions and argument, and are directed to parties other than McWane, therefore requiring no response from McWane. The terms of Star's Consent Agreement speak for themselves. To the extent a response is required, McWane incorporates by reference, as if fully set forth herein, its response and all of its defenses to the FTC's complaint, and specifically denies that it engaged in a conspiracy with Star or any other party.

129. McWane admits the allegations in paragraph 129, but avers that the Administrative Law Judge rejected Complaint Counsel's conspiracy claims, finding the allegations "weak," "unpersuasive," "strained," "unsupported," "pure speculation" and "without merit."

130. The allegations in paragraph 130 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in

paragraph 130.

131. The allegations in paragraph 131 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 131.

132. The allegations in paragraph 132 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 132.

133. McWane incorporates by reference its responses to the allegations in the preceding paragraphs. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

134. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

135. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

136. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

137. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

138. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

139. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

140. This Court dismissed the First Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

141. McWane incorporates by reference its responses to the allegations in the

preceding paragraphs. This Court dismissed the Second Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

142. This Court dismissed the Second Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

143. This Court dismissed the Second Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

144. This Court dismissed the Second Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

145. This Court dismissed the Second Claim for Relief in its entirety in its October 2, 2013 order; thus, this paragraph requires no response.

146. McWane incorporates by reference its responses to the allegations in the preceding paragraphs.

147. The allegations in paragraph 147 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 147.

148. The allegations in paragraph 148 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 148 with respect to McWane. To the extent the allegations of paragraph 148 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

149. The allegations in paragraph 149 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 149 with respect to McWane. To the extent the allegations of paragraph 149 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

150. The allegations in paragraph 150 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 150 with respect to McWane. To the extent the allegations of paragraph 150 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

151. The allegations in paragraph 151 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 151 with respect to McWane. To the extent the allegations of paragraph 151 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

152. The allegations in paragraph 152 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 152 with respect to McWane. To the extent the allegations of paragraph 152 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

153. The allegations in paragraph 153 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 153 with respect to McWane. To the extent the allegations of paragraph 153 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

154. The allegations in paragraph 154 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 154 with respect to McWane. To the extent the allegations of paragraph 154 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

155. The allegations in paragraph 155 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 155 with respect to McWane. To the extent the allegations of paragraph 155 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

156. The allegations in paragraph 156 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 156.

157. The allegations in paragraph 157 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 157.

158. The allegations in paragraph 158 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 158.

159. McWane incorporates by reference its responses to the allegations in the preceding paragraphs.

160. The allegations in paragraph 160 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 160 with respect to McWane. To the extent the allegations of paragraph 160 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

161. The allegations in paragraph 161 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 161 with respect to McWane. To the extent the allegations of paragraph 161 are directed to other Defendants, McWane lacks sufficient information to admit or deny those

allegations, and therefore denies them.

162. The allegations in paragraph 162 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 162 with respect to McWane. To the extent the allegations of paragraph 162 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

163. The allegations in paragraph 163 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 163 with respect to McWane. To the extent the allegations of paragraph 163 are directed to other Defendants, McWane lacks sufficient information to admit or deny those allegations, and therefore denies them.

164. The allegations in paragraph 164 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 164.

165. The allegations in paragraph 165 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 165.

166. The allegations in paragraph 166 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 166.

167. McWane incorporates by reference its responses to the allegations in the preceding paragraphs.

168. The allegations in paragraph 168 contain legal conclusions and argument to which no response is required.

169. The allegations in paragraph 169 contain legal conclusions and argument to which

no response is required. To the extent a response is required, McWane denies the allegations in paragraph 169.

170. The allegations in paragraph 170 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 170.

171. The allegations in paragraph 171 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 171.

172. The allegations in paragraph 172 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 172.

173. The allegations in paragraph 173 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 173.

174. The allegations in paragraph 174 contain legal conclusions and argument to which no response is required.

175. The allegations in paragraph 175 contain legal conclusions and argument to which no response is required.

176. The allegations in paragraph 176 contain legal conclusions and argument to which no response is required. To the extent a response is required, McWane denies the allegations in paragraph 176.

RESPONSE TO PRAYER FOR RELIEF

McWane denies that Plaintiffs are entitled to any relief whatsoever in this action, either as requested in Plaintiffs' Amended Complaint or otherwise.

AFFIRMATIVE AND ADDITIONAL DEFENSES

Subject to its responses above, and upon information and belief, McWane asserts the following affirmative and additional defenses in response to the allegations contained in Plaintiffs' Amended Complaint. McWane reserves all rights to allege additional defenses based on the facts that become known through the course of discovery or otherwise.

First Defense

Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted.

Second Defense

Plaintiffs' claims are barred, in whole or in part, as untimely under the applicable statute of limitations.

Third Defense

Plaintiffs' claims are barred, in whole or in part, by the doctrines of laches, estoppel, waiver, and/or unclean hands.

Fourth Defense

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs do not have standing to state claims or sue for damages under one or more of the laws or statutes under which they seek relief.

Fifth Defense

Plaintiffs' claims are barred because McWane's alleged conduct was lawful, justified, and pro-competitive, constituted bona fide business practices, and was carried out in furtherance of McWane's independent and legitimate business interests.

Sixth Defense

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have not suffered antitrust injury.

Seventh Defense

Plaintiffs' claims are barred, in whole or in part, because the conduct alleged did not cause any harm or injury to consumers or competition.

Eighth Defense

Plaintiffs' claims are barred, or may become barred, in whole or in part, by the doctrines of res judicata, release, accord and satisfaction, and/or waiver.

Ninth Defense

Due to an applicable forum selection provision, venue is improper.

Tenth Defense

Plaintiffs' claims for damages are barred because their alleged damages, if any, are too speculative and uncertain and remote, and because of the impossibility of ascertaining and allocating these alleged damages.

Eleventh Defense

Plaintiffs are precluded from recovering damages, in whole or in part, because and to the extent of, their failure to mitigate alleged damages, if any.

Twelfth Defense

Plaintiffs' claims are barred, in whole or in part, because none of McWane's challenged actions or omissions substantially lessened competition within any properly defined market.

Thirteenth Defense

Plaintiffs' claims are barred, in whole or in part, because McWane is not liable for the acts of any other Defendant.

Fourteenth Defense

Plaintiffs' claims are barred, in whole or in part, because injuries alleged by Plaintiffs, to the extent any exist, were caused, in whole or in part, by the conduct of third parties for whom McWane is not responsible, through forces in the marketplace over which McWane has no control, or through acts or omissions on the part of one or more of the Plaintiffs.

Fifteenth Defense

Plaintiffs' claims are barred, in whole or in part, because McWane lacked monopoly power.

Sixteenth Defense

Plaintiffs' claims are barred, in whole or in part, because no separate "domestic DIPF market" exists.

PRAYER FOR RELIEF

McWane requests that Plaintiffs' Amended Complaint be dismissed with prejudice, that the Court find that Plaintiffs are not entitled to any judgment or relief, that the Court enter judgment in favor of McWane, and that the Court award McWane its attorneys' fees, costs, and expenses, pre-judgment interest, and such other and further relief as the Court deems just and proper.

November 27, 2013

Respectfully submitted,

/s/ Mark Salah Morgan
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and-

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Attorneys for Defendant McWane, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of November, 2013, a copy of Defendant McWane's Answer to State of Indiana's Amended Complaint was served by electronic filing on all counsel of record.

/s/ Mark Salah Morgan
Mark Salah Morgan