

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE DUCTILE IRON PIPE FITTINGS : Civil Action No.: 12-169
("DIPF") INDIRECT PURCHASER : (AET) (LHG)
ANTITRUST LITIGATION :

MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT STAR PIPE PRODUCTS, LTD.'s MOTION TO DISMISS AS TO
COUNTS 3, 4, 5, 6 AND 10 OF THE AMENDED CLASS ACTION COMPLAINT

On the Brief:

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Attorneys for Defendant Star Pipe
Products, Ltd.

Defendant Star Pipe Products, Ltd. ("**Star**") files this Motion to Dismiss the Amended Class Action Complaint (the "**Complaint**") of Indirect Purchaser Plaintiffs Waterline Industries Corporation and Waterline Services, LLC, Yates Construction Co., Inc., City of Hallandale Beach (Florida), Wayne County (Michigan), South Huntington Water District (New York), City of Fargo (North Dakota), and City of Blair (Nebraska) (collectively, "**Indirect Plaintiffs**") for failure to state a claim upon which relief can be granted, pursuant to Federal Rule of Civil Procedure 12(b)(6).

Star joins in the requests for dismissal for the reasons listed in the Motions to Dismiss filed by Defendants McWane and Sigma (collectively "**Other Defendants' Motions to Dismiss**") as to Counts 3, 4, 5, 6, and 10:

- Plaintiffs have failed to set forth viable claims based on antitrust and consumer protection violations, for the reasons set forth in the Motion to Dismiss the Direct Purchaser Complaint and accompanying memorandum of law (No. 12-711);
- Plaintiffs have failed to plead sufficient facts supporting their various claims based on overcharges for ductile iron pipe fittings ("**DIPF**");
- Plaintiffs do not have standing to bring antitrust and consumer protection claims under the laws of states other than their home states;
- Plaintiffs have not asserted claims under the laws of their home states—specifically, Michigan, Nebraska, New Hampshire, New York, North

Carolina, and North Dakota antitrust law, and Florida and Nebraska consumer protection law—because those states require a showing of intrastate conduct and/or effects;

- Plaintiffs have failed to identify the states under which they are pursuing unjust enrichment claims

For purposes of brevity, Star incorporates herein the authorities cited by the Other Co-Defendants. Star does not join in relief sought or arguments made in the Other Defendants' Motions to Dismiss as to counts other than Counts 3, 4, 5, 6, and 10, as Star is not a party to those other counts and reserves its position as to the conduct asserted in those other counts.

CONCLUSION

For the reasons stated above and as requested in the Other Defendants' Motions to Dismiss as to Counts 3, 4, 5, 6, and 10, Star respectfully requests this Court to dismiss those counts of the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

Dated September 26, 2012

Respectfully submitted,

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