

Receipt Number
566848

16

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

BURHANS GLASS CO., INC., on behalf of itself :
and all others similarly situated, :

Plaintiff, :

vs. :

GUARDIAN INDUSTRIES CORP.; PPG :
INDUSTRIES INC.; PILKINGTON GROUP :
LIMITED; PILKINGTON NORTH AMERICA :
INC.; LIBBEY-OWENS-FORD CO; NIPPON :
SHEET GLASS CO., LIMITED; COMPAGNIE :
DE SAINT-GOBAIN; SAINT-GOBAIN :
CORPORATION; ASAHI GLASS COMPANY :
LIMITED; AGC FLAT GLASS NORTH :
AMERICA; :

Defendants. :

Case: 2:08-cv-10415
Judge: Feikens, John
Referral MJ: Morgan, Virginia M
Filed: 01-29-2008 At 02:48 PM
BURHANS GLASS V GUARDIAN (LMW)

CLASS ACTION COMPLAINT

Plaintiff, Burhans Glass Co., Inc., by its attorneys, on behalf of itself and all others similarly situated, brings this action for treble damages and injunctive relief under the antitrust laws of the United States against the above named defendants, complaining and alleging as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed and these proceedings are instituted under Sections 4 and 16 of the Act of Congress of October 15, 1914, C. 323, Stats. 731, 737 (15 U.S.C. §§15, 26), to obtain injunctive relief and to recover treble damages and the costs of suit, including a reasonable attorneys' fee, against defendants for the injuries sustained by

plaintiff and the members of the class which it represents by reason of defendants' and their co-conspirators' violations, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. Defendants transact business, maintain offices or are found within the Eastern District of Michigan. The interstate commerce described hereinafter is carried on, in part, within the Eastern District of Michigan, and the conspiratorial acts herein alleged were carried on, in part, in the Eastern District of Michigan.

II.

PLAINTIFF

3. Plaintiff Burhans Glass Co., Inc. is a Pennsylvania corporation with its principal place of business at 110 E. Biedler Road, King of Prussia, Pennsylvania 19406. During the Class period, plaintiff purchased construction flat glass directly from one or more of the defendants herein and has been injured by reason of the antitrust violations alleged.

III.

DEFENDANTS

4. Defendant Guardian Industries Corp. ("Guardian") is a Delaware corporation with its principal place of business at 2300 Harmon Road, Auburn Hills, Michigan 48326-1714. During the Class period, Guardian manufactured and sold construction flat glass to customers in the United States.

5. Defendant PPG Industries Inc. ("PPG") is a Pennsylvania corporation with its principal place of business at One PPG Place, Pittsburgh, Pennsylvania 15272. During

the Class period, PPG manufactured and sold construction flat glass to customers in the United States.

6. Defendant Pilkington Group Limited (“Pilkington Group Limited”) is a UK corporation with its principal place of business at Prescott Road, St. Helens, Merseyside, WA10 3TT, United Kingdom. During the Class period, Pilkington Group Limited, directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

7. Defendant Pilkington North America Inc. (“Pilkington North America”), a subsidiary of the Pilkington Group Limited, is incorporated in Delaware with its principal place of business at 811 Madison Avenue, Toledo, Ohio 43604-5684. During the Class period, Pilkington North America, directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

8. Defendant Libbey-Owens-Ford Co. (“LOF”) is a Delaware corporation with its principal place of business at 811 Madison Avenue, Toledo, Ohio 43604-5684. During the Class period, LOF, directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

9. Defendant Nippon Sheet Glass Co., Limited (“NSG”) is incorporated in Japan with its principal place of business at 2-1-7 Kaigan, Minato-ku, Tokyo, 105-8552, Japan. During the Class period, NSG, directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

10. Defendant Compagnie de Saint-Gobain (“Saint-Gobain”) is a French corporation, with its principal place of business at La Défense, Les Miroirs 18, avenue d’Alsace 92400 Courbevoie, France. During the Class period, Saint Gobain, directly or

through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

11. Defendant Saint-Gobain Corporation (“Saint-Gobain Corp.”) is a U.S. holding company incorporated in Pennsylvania with its principal place of business located at 750 East Swedesford Road, P.O. Box 860, Valley Forge, Pennsylvania 19482-0101. During the Class period, Saint Gobain Corp., directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

12. Defendant Asahi Glass Company Limited (“Asahi”) is incorporated under the laws of Japan with its principal place of business at 1-12-1, Yurakucho, Chiyoda-ku, Tokyo 100-8405, Japan. During the Class period, Asahi, directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

13. Defendant AGC Flat Glass North America is incorporated in Delaware with its principal place of business at 11175 Cicero Drive, Alpharetta, Georgia 30022-1166. Previously known as AFG Industries Inc., AGC Flat Glass North America is a subsidiary of Asahi. During the Class period, AGC Flat Glass North America, directly or through its subsidiaries or affiliates, manufactured and sold construction flat glass to customers in the United States.

IV

CO-CONSPIRATORS

14. Various other persons, firms and corporations not made defendants herein have participated as co-conspirators with the defendants in the violations alleged herein and have performed acts and made statements in furtherance thereof.

V.

DEFINITIONS

15. As used herein, the term “construction flat glass” means glass produced through the float glass method where molten glass (a combination of sand, limestone, soda ash, dolomite, iron oxide and salt cake) is placed in a molten tin bath wherein it flows freely until it forms a flat ribbon under the influence of gravity and surface tension. Approximately 50% of the flat glass produced by this method is used in construction applications. Construction flat glass is a commodity product that is subject to standardization by various trade and industry associations.

16. As used herein, the term “Class period” shall mean the time period from October 1, 2000 through the date of the filing of this suit.

VI.

CLASS ACTION ALLEGATIONS

17. Plaintiff brings this action under Rule 23, and particularly subsection (b) (3), of the Federal Rules of Civil Procedure, on behalf of itself and a class (the “Class”) consisting of all persons, excluding governmental entities, defendants, and subsidiaries and affiliates of defendants, who purchased directly, from one or more of the defendants and/or their co-conspirators, construction flat glass, during the period in suit and who have sustained damages as a result of the conspiracy herein alleged. The number of potential Class members is so numerous that joinder is impracticable.

18. Plaintiff, as representative of the Class, will fairly and adequately protect the interest of the Class members. The interests of plaintiff are coincident with, and not antagonistic to, those of the Class members.

19. Except as to the amount of damages each member of the Class has by itself sustained, all other questions of fact and law are common to the Class, including but not limited to, the combination and conspiracy hereinafter alleged, the violation of Section 1 of the Sherman Act (15 U.S.C. §1) and the effects of such violation.

20. The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy in that, among other things, there is no interest by members of the Class in individually controlling the prosecution of separate actions, and it is desirable to concentrate the litigation of the claims made herein in a single proceeding in order to provide small claimants with a forum in which to seek redress for this antitrust violation. Whatever difficulties may exist in the management of the class action will be greatly outweighed by the class action procedure, including but not limited to providing claimants with a method for the redress of claims that may not otherwise warrant individual litigation.

VII.

TRADE AND COMMERCE

21. During all or part of the period in suit, defendants and their co-conspirators were manufacturers and sellers of construction flat glass.

22. During the period in suit, the defendants manufactured, sold and shipped substantial quantities of construction flat glass in a continuous and uninterrupted flow in interstate commerce to customers located in states other than the states in which such construction flat glass was manufactured. In addition, substantial quantities of the raw

materials used by the defendants in manufacturing construction flat glass were shipped by suppliers located in other states in a continuous and uninterrupted flow in interstate commerce into the states where the construction flat glass was manufactured by the defendants.

23. During the Class period, the defendants were the major manufacturers and sellers of construction flat glass in the United States. Defendants controlled in excess of 75% of the market for construction flat glass in the United States. Construction flat glass was sold by defendants for use in residential and commercial construction. Total sales of construction flat glass by defendants exceeded \$2 billion on an annual basis throughout the Class period.

24. The activities of the defendants and their co-conspirators, as described herein, were within the flow of interstate commerce and substantially affected interstate commerce.

VIII.

VIOLATIONS ALLEGED

25. Beginning at least as early as October 2000, and continuing thereafter to the present, the exact dates being unknown to plaintiff, defendants and their co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

26. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and their co-conspirators, the substantial terms of which have been:

(a) to fix, raise, maintain and stabilize the price of construction flat glass throughout the United States; and

(b) to fix, raise, maintain and stabilize the terms and conditions of sale of construction flat glass in the United States.

A. Defendants' Actions in the United States

27. At least as early as September 2000, after attending meetings of the Flat Glass Manufacturing Division of Glass Association of North America ("GANA"), defendants, within a few weeks of one another, agreed to announce energy surcharges on the construction of flat glass manufactured by them. These initial surcharges were based on "higher costs" of natural gas, which was a component used in the manufacture of construction flat glass.

28. Each defendant adopted the identical method for making the surcharge calculation. After setting a \$300 per truckload surcharge to take effect on October 16, 2000, defendants all utilized an index keyed to the quarterly average of the NYMEX 3-day average monthly contract settlement futures price for natural gas.

29. By January 1, 2001, defendants raised the energy surcharge to \$500 per truckload of raw glass. This surcharge was applied identically by all defendants regardless of the size or weight of the glass being shipped or picked up at the plant.

30. At some point in 2001, as a result of a decrease in natural gas prices, the energy surcharge was no longer being imposed. After attending meetings of GANA, all defendants re-implemented energy surcharges, effective in June 2002, despite continued low natural gas pricing. During the 2002-2003 time period, defendants also implemented price increases and a series of plant and line closures to cut back on excess capacity that

existed in the construction flat glass industry at that time. Despite these closures, capacity utilization was in the low to mid 80% range throughout the entire Class period.

31. As the economy improved in 2004, defendants imposed successfully at least two price increases for construction flat glass. Part of this success was attributable to the shutdowns of plants and lines that were designed to, and did, reduce inventory.

32. By the beginning of 2005, as a result of the earlier closures, capacity utilization had risen to 90%. However, as a result of falling natural gas prices, in March 2005 defendants were forced to lower their energy surcharges by \$100 to \$800 per truckload. However, to recoup this income, defendants met through GANA and, within one month of this reduction, announced the imposition of a \$100 diesel fuel surcharge which was to be adjustable based on the twelve week average price of diesel fuel published by the Department of Energy.

33. After receiving complaints from their customers, all defendants delayed the implementation of the diesel fuel surcharge and, instead, in April 2005, implemented a 3% price increase on construction flat glass.

34. By September 2005, defendants did not delay further the implementation of the diesel fuel surcharge, and imposed a \$275 per truckload charge. Combined with the natural gas surcharge, class members found themselves paying nearly \$1,500 in surcharges per truckload of construction flat glass.

35. Effective January 1, 2006, defendants again increased their fuel surcharges to \$2,475 per truckload. The natural gas component was increased from \$1,225 to \$2,100 while the fuel oil component was increased from \$100 to \$375.

B. Defendants Actions in Europe

36. During the Class period, defendants participated jointly in meetings throughout Europe during which they discussed and agreed to the level and timing of price increases, and other commercial conditions for deliveries of construction flat glass.

37. On February 24, 2005, the European Commission (“EC”) announced that, on February 22 and February 23, 2005, it had raided the offices of flat glass manufacturers, seeking evidence of a price-fixing cartel in the flat glass industry. The EC issued a statement in which it announced that it “ha[d] reason to believe that the manufacturers concerned may have (amongst other things) coordinated price increases and agreed on the introduction of a so called ‘energy surcharge’ in the area of flat glass.”

38. On March 14, 2007, the EC confirmed that it sent a Statement of Objections, which contained formal written allegations of unlawful anticompetitive conduct, to the participants in a cartel for flat glass, including defendants Asahi, Guardian, Saint-Gobain and NSG/Pilkington.

39. On November 28, 2007, the EC announced that it had imposed fines, totaling €486.9 million (\$723 million), on defendants Guardian, Saint-Gobain, NSG/Pilkington, and Asahi for their participation in a cartel in the flat glass market. The EC found these defendants’ activities to violate the bans on cartels and restrictive business practices contained in the EC Treaty and the EEA Agreement (Article 81 of the EC Treaty and Article 53 of the EEA Agreement).

40. The EC investigation revealed that between 2004 and 2005, defendants Asahi, Guardian, NGS/Pilkington and Saint-Gobain managed to raise or otherwise

stabilize flat glass prices through a series of hotel and restaurant meetings, during which they discussed and agreed to the level and timing of price increases, target prices, minimum prices and/or exchanged sensitive commercial information.

41. For the purpose of formulating and effectuating the aforesaid combination and conspiracy, the defendants and their co-conspirators did those things that, as hereinbefore alleged, they combined and conspired to do.

IX.

EFFECTS

42. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) price competition in the sale of construction flat glass has been suppressed, restrained and eliminated;
- (b) prices for construction flat glass have been raised, fixed, maintained and stabilized at artificially high and non-competitive levels; and
- (c) purchasers of construction flat glass have been deprived of the benefit of free and open competition.

X.

DAMAGES

43. During the period of the antitrust violations by defendants and their co-conspirators, plaintiff, and each member of the Class it represents, has purchased construction flat glass and, by reason of the antitrust violations herein alleged, paid more for such products than they would have paid in the absence of said antitrust violations.

As a result, plaintiff and each member of the Class it represents has been injured and damaged in an amount presently undetermined.

XI.

FRAUDULENT CONCEALMENT

44. The conduct hereinbefore described was accomplished by defendants and their co-conspirators through a scheme designed to, and which did, fraudulently conceal the discovery of such conduct. Plaintiff had no knowledge of such conduct until approximately November 28, 2007 and, even with the exercise of due diligence, could not have ascertained the existence of such conduct. The resort to secrecy and fraudulent concealment by defendants and their co-conspirators to avoid detection of said conduct has the effect of tolling the running of the statute of limitations with respect to the violations hereinbefore alleged.

XII.

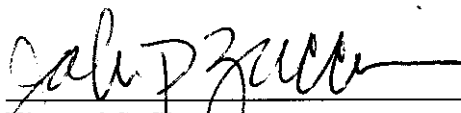
PRAYER FOR RELIEF

WHEREFORE, plaintiff demands:

- (a) that the alleged combination and conspiracy among the defendants and their co-conspirators be adjudged and decreed to be in unreasonable restraint of trade in violation of Section 1 of the Sherman Act;
- (b) that judgment be entered against defendants, jointly and severally, and in favor of plaintiff, and each member of the Class it represents, for threefold the damages determine to have been sustained by plaintiff, and each member of the Class it represents, together with the cost of suit, including a reasonable attorneys' fee;

(c) each of the defendants, successors, assignees, subsidiaries and transferees, and their respective officers, directors, agents and employees, and all other persons acting or claiming to act on behalf thereof or in concert therewith, be perpetually enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining or renewing the aforesaid combination, conspiracy, agreement, understanding or concert of action, or adopting or following any practice, plan, program, or design, having a similar purpose or effect in restraining competition; and

(d) such other and further relief as may appear necessary and appropriate.



1/29/08

Elwood S. Simon
John P. Zuccarini
ELWOOD S. SIMON & ASSOCIATES
355 S. Old Woodward Avenue
Suite 250
Birmingham, MI 48009

Joel C. Meredith
Steven J. Greenfogel
Daniel B. Allanoff
MEREDITH COHEN GREENFOGEL &
SKIRNICK, P.C.
1521 Locust Street
8th Floor
Philadelphia, PA 19103

Robert A. Skirnack
MEREDITH COHEN GREENFOGEL &
SKIRNICK, P.C.
One Liberty Plaza
35th Floor
New York, NY 10006

Steve W. Berman
Anthony D. Shapiro
HAGENS BERMAN SOBOL SHAPIRO, LLP
1301 Fifth Avenue
Suite 2900
Seattle, WA 98101

Martin I. Grossman
2121 Green Brier Drive
Villanova, PA 19085

Ira Neil Richards
TRUJILLO, RODRIGUEZ & RICHARDS, LLC
1717 Arch Street
Suite 3838
Philadelphia, PA 19103

Attorneys for Plaintiff

JS 44 (Rev. 11/04)

CIVIL COVER SHEET County in which this action arose

WAYNE/OAKLAND

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
BURHANS GLASS CO., INC

(b) County of Residence of First Listed Plaintiff PENNSYLVANIA
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
ELWOOD S. SIMON
355 S. OLD WOODWARD AVE, SUITE 250
BIRMINGHAM, AL 35209 (248) 646-9730

DEFENDANTS
GUARDIAN INDUSTRIES CORP, et al

County of Residence of First Listed Defendant OAKLAND
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Case: 2:08-cv-10415
 Judge: Feikens, John
 Referral MJ: Morgan, Virginia M
 Filed: 01-29-2008 At 02:48 PM
BURHANS GLASS V GUARDIAN (LMW)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CIT (Citizenship)

Citizen of this State 1 1 incorporated or principal place of Business In This State 4 4

Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5

Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input checked="" type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 470 Kicker Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General			<input type="checkbox"/> 580 Economic Stabilization Act 12 USC 3410
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 590 Other Statutory Actions
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 591 Agricultural Acts
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 592 Economic Stabilization Act
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			<input type="checkbox"/> 593 Environmental Matters

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Sections 1, 4, 16 of SHERMAN ACT, 15 USC §§ 1, 15, 26

Brief description of cause:
Price Fixing Conspiracy in violation of Antitrust provisions of Sherman Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ NA

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 1/29/08

SIGNATURE OF ATTORNEY OF RECORD
Elwood S. Simon

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
