

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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LAWRENCE J. ACKER; BRIAN W. BUTTARS; LINDA
DESMOND; RON MIASTKOWSKI; PERRY PEKA;
PATRICK SIMASKO and WAYNE STANFORD, on
behalf of themselves and all others similarly situated,

08 CIV.

CLASS ACTION COMPLAINT

Plaintiffs,

JURY TRIAL DEMANDED

-against-

THE HOME CITY ICE COMPANY, INC.; REDDY ICE
HOLDINGS INC.; ARCTIC GLACIER INC.; ARCTIC
GLACIERS INTERNATIONAL INC. and ARCTIC
GLACIER INCOME FUND,

Defendants.

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Plaintiffs, on behalf of themselves and all others similarly situated, bring this action for damages, injunctive relief and costs of suit including reasonable attorneys' fees for injuries to themselves and members of the proposed class they represent. The allegations set forth below are based upon information and belief pursuant to the investigation of counsel, except as to those allegations regarding each plaintiff.

NATURE OF CLAIMS

1. This class action seeks to recover damages and injunctive relief arising from a long-standing cartel among defendants – producers of packaged ice in the United States and Canada. In furtherance of their cartel, defendants agreed to, and did in fact, fix and inflate prices, allocate territories and customers, acquire competitors, refuse to compete and otherwise commit a variety of unlawful and anticompetitive acts. The purpose and effect of the cartel has been to fix, raise, maintain and stabilize the prices paid for ice sold in plastic bags or large blocks (“packaged ice”) throughout the United States. Defendants have been the targets of an ongoing

criminal investigation by the Antitrust Division of the United States Department of Justice. That investigation has resulted in one guilty plea for a violation Section 1 of the Sherman Act, execution of search warrants and issuance of grand jury subpoenas.

JURISDICTION AND VENUE

2. Plaintiffs' claims arise under §1 of the Sherman Act (15 U.S.C. §1) and the antitrust and consumer protection statutes and common law of 27 states and the District of Columbia. This Court has exclusive original jurisdiction over the federal claim pursuant to §16 of the Clayton Act (15 U.S.C. §26) as well original jurisdiction pursuant to 28 U.S.C. §1331. This Court also has jurisdiction over this entire action pursuant to 28 U.S.C. §1332(d) because one plaintiff and one defendant are citizens of different states and the amount-in-controversy sought on behalf of the Class exceeds \$5 million exclusive of interest and costs. In addition, this Court has supplemental jurisdiction over the state claims pursuant to 28 U.S.C. §1367 because they arise out of a common nucleus of operative facts of the federal claim asserted in this action.

3. Venue is proper in the Eastern District of Michigan pursuant to §12 of the Sherman Act (15 U.S.C. §22) and 28 U.S.C. §1391 because defendants transact business, may be found and a substantial part of the events and occurrences giving rise to the claims took place, in this District.

4. Defendants' activities were intended to, and did have, a substantial effect on interstate commerce.

PARTIES

5. Plaintiffs are citizens of California, Florida, Indiana, Michigan and New York. Since 2001, plaintiffs have purchased packaged ice indirectly, for their own use and not for resale, throughout the United States including in the states in which they are citizens.

6. Defendant The Home City Ice Company Inc. (“Home City”) is a corporation organized and existing under the laws of the State of Ohio with its principal place of business located in Cincinnati, Ohio.

7. Defendant Reddy Ice Holdings, Inc. (“Reddy Ice”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Dallas, Texas.

8. Defendants Arctic Glacier Fund and Arctic Glacier Inc. are business entities organized and existing under the laws of Canada with their principal places of business located in Winnipeg, Manitoba, Canada. Arctic Glacier Inc. is a wholly owned subsidiary of Arctic Glacier Fund.

9. Defendant Arctic Glacier International Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in West St. Paul, Minnesota. Arctic Glacier International Inc. is a wholly owned subsidiary of Arctic Glacier Inc. Arctic Glacier Fund, Arctic Glacier Inc. and Arctic Glacier International Inc. are hereinafter collectively referred to as “Arctic Glacier.”

CO-CONSPIRATORS

10. Various individuals and entities who are presently unknown to plaintiffs participated as co-conspirators with defendants in the wrongful conduct alleged herein and have engaged in conduct and made statements in furtherance of the conspiracy.

11. The acts charged in this Complaint were done or authorized by defendants’ officers, agents, employees or representative while actively engaged in the management of each defendant’s business or affairs.

INTERSTATE TRADE AND COMMERCE

12. Defendants are the leading packaged ice manufacturers in the United States and Canada. Collectively they sell packaged ice throughout the United States.

13. The conduct of which plaintiffs complain has directly and substantially affected interstate commerce. These acts have deprived plaintiffs of the benefits of free and open competition for the sale of packaged ice throughout the United States including in the states of Alabama, Arizona, California, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Wisconsin and West Virginia.

CHARACTERISTICS OF THE PACKAGED ICE INDUSTRY

14. Packaged ice is sold in packages ranging from 5 to 50 pounds at retail establishments such as supermarkets and grocery, convenience and beverage stores. It is used for, among other things, to keep food and beverages at sufficiently cold or comfortable temperatures for human consumption particularly when refrigeration is not available.

15. Consumers of packaged ice do not have any alternative products that they find reasonably interchangeable with packaged ice. They will not substitute packaged ice for another product in response to a small but significant, non-transitory increase in price.

16. Demand for packaged ice is inelastic and stable. Because of its low cost, consumers are not sensitive to price as they will not reduce the quantity of packaged ice that they demand in response to a small but significant non-transitory increase in price. Thus, an increase in price will not produce a sufficient reduction in the quantity of packaged ice sold to render a price increase unprofitable.

17. Consumers treat packaged ice as a commodity product. They are not loyal to any particular brand of packaged ice.

18. Reddy Ice is the largest manufacturer of packaged ice in the United States with facilities in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Louisiana, Maryland, Mississippi, Southwestern Missouri, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas (except the Northeastern part of the state), Utah, Virginia and West Virginia. Its customers are located primarily in these states. In 2007, Reddy Ice sold approximately 1.9 million tons of packaged ice – mainly in 7 and 10 pound bags -- to supermarkets and convenience stores (among others) generating revenue of more than \$300 million.

19. Arctic Glacier is the second largest packaged ice manufacturer in the United States with facilities in California, Iowa, Kansas, Maine, Michigan, Minnesota, Missouri (except the Southwestern part of the state), Nebraska, New Jersey, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Northeastern Texas (mainly the Northeastern part of the state) and Wisconsin. In 2007, Arctic Glacier sold about 500,000 tons of packaged ice – mainly in 5 to 40 pound bags – to supermarkets and convenience stores (among others) in those states. It generated revenue of about \$200 million from such sales.

20. Home City is the third largest manufacturer of packaged ice in the United States with facilities in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Tennessee and West Virginia. It manufactures about 4,400 tons of packaged ice per day in bags of at least 7 pounds. Home City's customers include supermarkets and convenience stores in those states as well as in parts of Michigan, Maryland and New York.

21. Over the last several years, Reddy Ice and Arctic Glacier have executed a strategy of acquiring competitors. As a result, the packaged ice industry is highly concentrated and consists of three leading manufacturers – defendants -- that are capable of serving large national and regional retailers. Defendants manufacture and sell approximately 70% of the packaged ice in the United States.

22. Since 1997, Reddy Ice acquired 114 competitors. Since 2003, Reddy Ice acquired 35 competitors at a cost of \$126.4 million. None of these acquisitions gave Reddy Ice facilities or a customer base in regions where Arctic Glacier or Home City does business.

23. Since 2001, Arctic Glacier has acquired 20 competitors with facilities in California, Delaware, Michigan, Minnesota, Nebraska, New York, Pennsylvania and Wisconsin. None of these acquisitions gave Arctic Glacier facilities or a customer base in regions where Reddy Ice or Home City do business.

24. In 2006, Arctic Glacier acquired 6 companies in California for \$188.5 million and in 2007 Arctic Glacier acquired Union-Pacific L.P. of Los Angeles, the leading packaged ice manufacturer in the area. These acquisitions gave Arctic Glacier dominance in California.

25. In 2003, Arctic Glacier acquired Springdale Ice Company and Diamond Ice Company in New York. In 2003, Arctic Glacier acquired Rosenberger Ice and Brandywine Ice with facilities Pennsylvania and Delaware. In 2004, Arctic Glacier acquired Leisure Time Ice and Losquardo Ice Group. In 2006, Arctic Glacier acquired Happy Ice LLC. These companies had facilities throughout New York and Leisure Time and Losquardo also had facilities in New Jersey. These acquisitions ensured that Arctic Glacier had dominance in the Northeast – from Delaware to the Canadian border.

26. Packaged ice manufacturers are able to monitor the sales activity of each other including the territories and customers to which they sell and the approximate prices charged.

27. Defendants' pricing is not constrained by threat of entry into the manufacture and sale of packaged ice. There are high barriers to enter the industry. Entry requires substantial start-up capital to build the necessary infrastructure. In addition, customers typically carry only one brand of packaged ice provided by a single supplier. Therefore, it would be difficult for a new entrant to displace an incumbent packaged ice supplier and secure larger national and regional chain customers.

28. Customers of packaged ice – retailers such as supermarkets and convenience, grocery and beverage stores – are in a fiercely competitive industry. They operate on slim margins. They have the ability to change prices frequently and cheaply. They cannot afford to absorb price increases and remain profitable. As a result, they typically pass on entire price increases to their customers such as plaintiffs and the Class.

ANTICOMPETITIVE CONDUCT

29. Beginning at least as early as 2001, the exact date being unknown to plaintiffs, defendants agreed to allocate territories and customers among themselves and not to compete with each of other. Each of the defendants also agreed not to acquire businesses that operated in another coconspirator's territory. The purpose and effect of their conspiracy has been to raise, fix and maintain the price of packaged ice higher than it would have been in the absence of the agreement.

30. Since 2001, defendants have implemented their agreement. As a result of their conspiracy, they obtained dominant positions in different regions of the United States where they do not compete with each other. Reddy Ice controls the sunbelt states from Florida to New

Mexico, the mid-Atlantic and Northwest; Arctic Glacier controls the Central and Northeastern states and California; and Home City controls Illinois, Idaho and Ohio and sells in the fringes of some bordering states. Notably, defendants do not sell in territories or have facilities in regions that overlap with one another.

31. Defendants' conduct has been inconsistent with their economic self-interest in the absence of a conspiracy. For example, it would have been in Arctic Glacier's economic self-interest to expand its territory into the Southern United States – a particularly lucrative region for packaged ice – but it has not done so. Because Arctic Glacier's adjoining territory is in the less lucrative Northeastern United States, they would have little concern that Reddy Ice would retaliate and expand into that territory. And if Reddy Ice did so, Arctic Glacier would expect that its profits from sales in the lucrative South would more than offset any retaliatory competition by Reddy Ice in the Northeast. Similarly, for example, with locations in New Mexico and Southern Nevada, it would have been in Reddy Ice's economic self-interest to expand its territory into California – another lucrative region for packaged ice -- but it has not done so. And, for example, it would have been in Home City's economic self-interest to expand its territory throughout Michigan as it has an established customer base in part of the state but it has not done so.

32. Defendants recognize that any expansion into another's territory likely will be detected and the loss of profits from competition if their agreement were to breakdown more than offsets the increased revenue from such expansion. The potential reduction in prices and loss of sales resulting from competition by one or both of their co-conspirators throughout the United States where there has been no competition previously would more than offset the limited increased profits from encroaching into each other's agreed upon territories.

33. The agreement was made and implemented by communications between the parties. They have numerous occasions to meet face-to-face at, for example, meetings of the International Packaged Ice Association of which they are members.

34. Defendants' conduct was malicious, flagrant and intended to harm plaintiffs and the Class or undertaken with a reckless disregard for their rights.

35. The United States Department of Justice, Antitrust Division uncovered the cartel. It has obtained a guilty plea from one defendant that covers part of the cartel and has an ongoing criminal investigation that targets the other defendants.

36. On October 18, 2007, Home City agreed to plead guilty to a violation of §1 of the Sherman Act. In its plea agreement, Home City admitted, "since 2001, [defendant] participated in a conspiracy among packaged ice producers, the primary purpose of which was to allocate customers and territories of packaged ice sold in southeastern Michigan and the Detroit, Michigan metropolitan area. In furtherance of the conspiratorial activity, the defendant, through its officers and employees, primarily through its deceased vice president of sales and marketing, engaged in discussions and attended meetings with representatives of other packaged ice producers. During these discussions and meetings, agreements were reached to allocate customers and territories of packaged ice to be sold in southeastern Michigan and the Detroit, Michigan metropolitan area." On June 17, 2008, Thomas E. Sedler, a representative of Home City, appeared before the Honorable Herman J. Weber, United States District Judge of the United States District Court for the Southern District of Ohio (Western Division) and on behalf of Home City, swore that the averments in the plea agreement were true. The Court then accepted and entered Home City's guilty plea pursuant to the plea agreement.

37. On or about March 4, 2008, a United States Magistrate Judge of the United States

District Court for the Northern District of Texas issued a warrant authorizing the Federal Bureau of Investigation to search Reddy Ice's headquarters in Dallas, Texas. Before issuing the search warrant, the magistrate judge determined -- based upon a sworn government application -- it was more likely than not that Reddy Ice violated Section 1 of the Sherman Act and that evidence of that criminal activity will be found at its corporate headquarters.

38. Reddy Ice has acknowledged the execution of the search warrant and a criminal investigation of the packaged ice industry and formed a special committee to investigate the misconduct. On or about March 7, 2008, Reddy Ice issued the following press release:

Reddy Ice Holdings, Inc. is providing further information to supplement the press release issued on March 6, 2008 regarding the execution of a search warrant at the Company's Dallas Corporate Office on March 5, 2008. The execution of the search warrant was directed by the Antitrust Division of the United States Department of Justice in connection with an investigation of the packaged ice industry. The Company's board of directors formed a special committee of independent directors to conduct an internal investigation. The Company will continue to serve its customers.

39. Arctic Glacier also has admitted that it is under investigation by the Antitrust Division. On or about March 6, 2008, Arctic Glacier issued the following press release:

Arctic Glacier Income Fund today announced that on March 5, 2008, its operating subsidiary, Arctic Glacier Inc., became aware the Antitrust Division of the United States Department of Justice is conducting an investigation into possible antitrust issues in the Packaged Ice industry. The company will cooperate with authorities in the course of the investigation.

INJURY

40. As a direct and foreseeable consequence of defendants' conspiracy, plaintiffs and the Class have paid more for packaged ice since 2001 than they would have in the absence of the conspiracy. Defendants' wrongful conduct has resulted in artificially inflated prices throughout the United States, including in the states of Alabama, Arizona, California, District of Columbia,

Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Wisconsin and West Virginia.

41. Plaintiffs and the Class will suffer irreparable harm unless defendants are enjoined from continuing to implement their unlawful agreement in the future and the Court remedies the conditions they created in the packaged industry in furtherance of their conspiracy. Otherwise, plaintiffs and the Class will continue pay more for packaged ice than they would have in the absence of the conspiracy.

CLASS ACTION ALLEGATIONS

42. Plaintiffs bring this action on their own behalf and on behalf of all others similarly situated. The “Class” is defined as:

All persons or other legal entities (excluding governmental entities, defendants, their officers, directors, subsidiaries or affiliates), who purchased packaged ice indirectly in Alabama, Arizona, California, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Wisconsin and West Virginia since 2001.

43. The members of the Class are so numerous that joinder of all of them would be impracticable. The exact number of Class members is unknown by plaintiffs at this time, but plaintiffs believe them to number in the millions.

44. Plaintiffs’ claims are typical of the Class members. Plaintiffs and all Class members were impacted and damaged in the same manner by defendants’ wrongful conduct. Plaintiffs and the Class members purchased packaged ice at artificially inflated prices because of defendants’ wrongful conduct.

45. Plaintiffs will fairly and adequately protect the interest of the Class. Plaintiffs’

interests are coincident with, and not antagonistic to, those of the Class. Plaintiffs also have retained counsel who have experience in the litigation of complex antitrust class actions including of the type of claims alleged herein.

46. Questions of law and fact common to the Class members predominate over questions that may affect only individual Class members. Defendants have acted on grounds generally applicable to the entire Class. Common questions of law and fact include, but are not limited to:

- a. Whether defendants conspired to fix prices and allocate territories and customers with the purpose and effect of fixing, raising, maintaining or stabilizing prices;
- b. Whether defendants' conduct violated §1 of the Sherman Act;
- c. When defendants' conspiracy began and whether defendants took affirmative steps to conceal their conspiracy;
- d. Whether defendants' conduct caused the prices that plaintiffs and the Class paid for packaged ice to be higher than they would have been in the absence of the conspiracy; and
- e. Whether Plaintiffs and the Class are entitled to equitable and injunctive relief and the nature of such relief.

47. Class action treatment is superior to any other method for the fair and efficient adjudication of this controversy. Class action treatment will permit, among other things, (1) millions of similarly situated persons to prosecute their claims in a single forum avoiding the duplication that individual actions would require and (2) adjudication of the Class' relatively small claims which would otherwise go unaddressed because the expense of prosecuting them would greatly outweigh the potential recovery in any individual action.

48. There are no difficulties that will be encountered in maintenance of this action that would otherwise preclude its treatment as a class action.

AFFIRMATIVE CONCEALMENT

49. Throughout the conspiracy, defendants and their co-conspirators affirmatively and actively concealed their wrongful conduct from plaintiffs. They conducted their conspiracy in secret, concealed the true nature of their wrongful conduct and acts in furtherance thereof, and actively concealed their activities through various means to avoid detection.

50. Plaintiffs did not discover, and through the exercise of reasonable diligence, could not have discovered defendants' wrongful conduct any earlier than March 6, 2008 when news of the search of Reddy Ice's corporate headquarters was released.

COUNT ONE

(§1 OF THE SHERMAN ACT, 15 U.S.C. §1)

(FOR INJUNCTIVE AND EQUITABLE RELIEF ONLY)

51. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 50 above as if fully set forth herein.

52. Defendants and their co-conspirators entered into and engaged in a contract, combination or conspiracy in unreasonable restraint of trade in violation of §1 of the Sherman Act (15 U.S.C. §1).

53. Defendants' contract, combination or conspiracy threatens plaintiffs and the Class with loss or damage to their property providing them with a right to injunctive and equitable relief under §16 of the Clayton Act (15 U.S.C. §26).

COUNTS TWO THROUGH TWENTY-FOUR

(STATE STATUTES)

54. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 53 above as if fully set forth herein.

55. Defendants' contract, combination or conspiracy in unreasonable restraint of trade as alleged herein violates the statutes in the following states and District of Columbia:

- a. Arizona (A.R.S. §44-102);
- b. California (Cal. Bus. & Prof. Code §16726);
- c. District of Columbia (D.C. Code Ann. §28-4502);
- d. Florida (Fl. Stat. §501.204);
- e. Illinois (740 Ill. Comp. Stat. 10/3);
- f. Iowa (Iowa Code §553.4);
- g. Kansas (Kan. Stat. Ann. §50-112);
- h. Maine (ME Rev. Stat. Ann., Tit, 10, §1101);
- i. Michigan (Mich. Comp. Laws §445.772);
- j. Minnesota (Minn. Stat. §325D.51);
- k. Mississippi (Miss. Code Ann. §75-21-3);
- l. Montana (Montana Code §30-24-205);
- m. Nebraska (Neb. Rev. Stat §59-801);
- n. Nevada (Nev. Rev. Stat. 589A.060);
- o. New Mexico (N.M. Stat. Ann. §57-1-3);
- p. New York (N.Y. Gen. Bus. Law §340);
- q. North Carolina (N.C. Gen. Stat. §75-1);

- r. North Dakota (N.D. Cent. Code §51-08.1-02);
- s. South Dakota (S.D. Codified Laws Ann. §37-1-3.1);
- t. Tennessee (T.C.A. §47-25-101);
- u. Tennessee (T.C.A. §47-18-104);
- v. Vermont (9 Vt. Stat. Ann. §2453(a));
- w. West Virginia (W.Va. Code §47-18-3); and
- x. Wisconsin (Wis. Stat. §133.14).

COUNTS TWENTY-FIVE THROUGH TWENTY-SEVEN

(STATE STATUTES)

56. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 55 above as if fully set forth herein.

57. Defendants and their co-conspirators secretly agreed to allocate customers in New York, Pennsylvania and Rhode Island with the purpose and effect of raising prices that consumers paid for packaged ice in New York, Pennsylvania and Rhode Island.

58. Consumers in New York, Pennsylvania and Rhode Island were targets of defendants' conspiracy.

59. Defendants omitted material information that made the statements about their price increases materially misleading, and also made affirmatively misleading statements about the real cause of price increases. These false and misleading statements were made to consumers in New York, Pennsylvania and Rhode Island.

60. Defendants' wrongful conduct caused plaintiffs and the relevant Class members who indirectly purchased packaged ice in New York, Pennsylvania and Rhode Island -- for their own use and not for resale -- to pay more for that packaged ice than they would have in the

absence of defendants' unlawful trade practices.

61. By reason of the foregoing, defendants violated N.Y. Gen. Bus. §349, 73 P.S. §201-3 and R.I. Gen. Laws §6-13.1-2.

COUNT TWENTY-NINE

(UNJUST ENRICHMENT)

62. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 61 above as if fully set forth herein.

63. Through paying more for packaged ice than they would have in the absence of defendants' wrongful conduct, plaintiffs and the Class have conferred a benefit on defendants.

64. As a result of defendants' wrongful conduct, defendants were able to charge more for packaged ice which overpayments were made by plaintiffs and the Class.

65. Defendants have been unjustly enriched by overpayments made by plaintiffs and the Class. Equity demands that defendants be required to make restitution and return the overpayments to Plaintiffs and the Class.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully pray that the Court enter judgment as follows:

a. Determining that this action may be maintained as a class action pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure;

b. Enjoining defendants from continuing to implement their unlawful agreement and ordering defendants to take such actions as necessary to remediate the market conditions that defendants created which would allow them to maintain, or continue to increase, prices above competitive levels;

c. Awarding plaintiffs and the relevant Class members compensatory damages under the state statutes in an amount to be proven at trial, trebled according to law against defendants, jointly and severally (except as to New York Gen. Bus. Law. §340 *et seq.* for which plaintiffs do not seek treble damages);

d. Awarding plaintiffs and the relevant Class members compensatory damages in an amount to be proven at trial under the state unfair competition, consumer protection and deceptive trade practices laws;

e. Awarding plaintiffs and the relevant Class members punitive, exemplary, statutory, and full consideration damages under the state laws that permit such recoveries;

f. Ordering defendants to disgorge their profits earned as a result of their wrongful conduct and ordering them to make restitution to plaintiffs and the Class;

g. Awarding plaintiffs and the Class pre-judgment and post-judgment interest;

h. Awarding plaintiffs and the Class their costs of suit, including reasonable attorneys' fees; and

i. Granting plaintiffs and the Class such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Pursuant to Rule 37(b), Federal Rules of Civil Procedure, plaintiffs and the Class demand a trial by jury on all claims alleged herein that are so triable.

Dated: Bloomfield Hills, Michigan
July 14, 2008

Respectfully submitted,

By: _____
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