

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

STATE OF INDIANA EX REL. HILL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:
	)	
ANDREWS CONSTRUCTION COMPANY,	)	
LLC, SCOTT ANDREWS, HUFFER	)	
CONSTRUCTION CO., INC., and STUART	)	
HUFFER,	)	
	)	
Defendants.	)	

**COMPLAINT**

**I. PRELIMINARY STATEMENT**

1. The plaintiff, Attorney General Curtis T. Hill, Jr., as *parens patriae* for the residents of the State of Indiana and on behalf of the State of Indiana in its sovereign capacity, institutes this action for injunctive and other equitable relief against Andrews Construction Company, LLC and Scott Andrews (“Andrews”), and Huffer Construction Co., Inc., and Stuart Huffer (“Huffer”), alleging that the defendants violated 15 U.S.C. § 1 and Ind. Code 24-1-2-1 *et seq.* by engaging in an unlawful scheme, contract, combination and conspiracy to restrict bidding for a contract for commercial buildout work.

**II. JURISDICTION AND VENUE**

2. The Court has original jurisdiction for this cause of action pursuant to 28 U.S.C. §§ 1331 and 1337.

3. The Court has supplemental jurisdiction over the subject matter of the second claim for relief pursuant to 28 U.S.C. § 1367.

4. Venue is proper in the United States District Court, Southern District of Indiana, under 15 U.S.C. § 22 and 28 U.S.C. § 1391.

### **III. INTERSTATE COMMERCE**

5. The parties participate in interstate commerce or in activities substantially affecting interstate commerce.

### **IV. PARTIES**

6. The plaintiff, the Attorney General of the State of Indiana, is authorized to bring this action and to seek injunctive relief pursuant to 15 U.S.C. § 26 and Ind. Code § 24-1-2-5.

7. At all times relevant to this Complaint, the defendant Andrews Construction Company, LLC was an Indiana limited liability company with a principal office at 8888 Keystone Crossing, Ste. 520, Indianapolis, Indiana 46240.

8. At all times relevant to this Complaint, the defendant Scott Andrews was the principal of Andrews Construction Company, LLC, was active in its management and operation, and controlled and directed its affairs.

9. At all times relevant to this Complaint, the defendant Huffer Construction Co., Inc. was an Indiana for-profit corporation with a principal office at 5860 E 25th St #E, Indianapolis, Indiana 46218.

10. At all times relevant to this Complaint, the defendant Stuart Huffer was the principal of Huffer Construction Co., Inc., was active in its management and operation, and controlled and directed its affairs

## **V. FACTUAL ALLEGATIONS**

11. At all times relevant to this Complaint, all defendants were engaged in the business of contracting for construction jobs, including jobs for the build-out of commercial real estate.

12. Lessees renting commercial real estate often require adjustments to the interior space, or “build-out,” in order to fit the space to their purposes.

13. On or about September 7, 2017, the defendants entered a combination and conspiracy to restrict bidding for a commercial build-out job for an Indiana corporation, The Great States Corporation, d/b/a American Lawn Mower Co. (“ALMC”).

14. ALMC distributes and sells lawn and garden tools to customers throughout the United States and formerly maintained its principal corporate offices in Shelbyville, Indiana.

15. In 2017, ALMC leased a commercial space at 7444 Shadeland Station Way, Indianapolis, Indiana 46256 to serve as its new principal office. ALMC required build-out services in order to use this commercial space, and ALMC solicited bids for this build-out job through a commercial real estate broker.

16. On or about the morning of September 7, 2017, the defendants attended a walkthrough of the jobsite at 7444 Shadeland Station Way, Indianapolis, Indiana 46256 arranged by a commercial real estate broker in order to assess the job.

17. Following the walkthrough and before leaving the jobsite, the defendants had a discussion about the ALMC job in which Andrews offered to pay

Huffer in exchange for the latter's agreeing to submit a bid in an amount higher than Andrews'. Huffer accepted Andrews' offer.

18. On or about September 7, 2017, Andrews directed his employee to include \$2,000 in a bid quote being prepared for the ALMC job in order to get Huffer to back out of the job. Andrews also told that employee that they needed to get their bid quote for the ALMC job to Huffer prior to submitting it to the real estate broker so that Huffer would have sufficient time "to fluff his number."

19. On or about September 8, 2017, Andrews sent an email to Huffer containing a draft bid quote for the purpose of ensuring that Huffer's bid for the ALMC job would be at an amount above Andrews' bid.

20. The draft bid quote for Andrews that was shared with Huffer reflected a total job price of \$162,950.

21. The September 8, 2017, email indicated that Andrews' bid included \$2,000 to cover a payment in the same amount to Huffer for the latter's agreeing not to bid competitively.

22. On or about September 11, 2017, Andrews submitted a bid quote to ALMC's real estate broker reflecting a total price of \$162,950.

23. On or about September 13, 2017, Huffer submitted a bid quote to ALMC's real estate broker reflecting a total price of \$183,615.

24. Andrews won the bidding for the ALMC job and substantially completed work for the job by December of 2017.

25. On or about December 22, 2017, Andrews made a payment by check in the amount of \$2,000 to Huffer for the purpose of compensating the latter's agreement not to bid competitively.

26. At all times relevant to this Complaint, Defendants were and are competitors for the provision of construction services.

27. The Defendants' agreement deprived ALMC of the benefits of competition.

28. The Defendants' willingness to enter such agreements threatens injury to the economy of Indiana and the welfare of her citizens if not redressed and restrained.

**VI. FIRST CLAIM FOR RELIEF:  
VIOLATIONS OF SECTION 1 OF THE SHERMAN ACT**

29. The Attorney General incorporates herein by reference all preceding paragraphs as if fully set forth herein.

30. The defendants entered an agreement to restrict bidding in the letting of a contract for construction services.

31. That agreement constituted a contract, combination, or conspiracy within the meaning of the Sherman Act.

32. The provision of construction services involved trade or commerce within the meaning of the Sherman Act.

33. The defendants' agreement constituted an unreasonable restraint of trade in violation of the Sherman Act, 15 U.S.C. § 1.

**VII. SECOND CLAIM FOR RELIEF:  
VIOLATIONS OF IND. CODE 24-1-2-1**

34. The Attorney General incorporates herein by reference all preceding paragraphs as if fully set forth herein.

35. The defendants entered an agreement to restrict bidding in the letting of a contract for construction services.

36. That agreement constituted a scheme, contract, or combination within the meaning of Ind. Code § 24-1-2-1.

37. The provision of construction services involved trade or commerce within the meaning of Ind. Code § 24-1-2-1.

38. The defendants' agreement constituted an unreasonable restraint of trade in violation of Ind. Code § 24-1-2-1.

### **VIII. DEMAND FOR RELIEF**

WHEREFORE, the Attorney General requests this Court to enter judgment against the defendants, Andrews Construction Company, LLC and Scott Andrews, and Huffer Construction Co., Inc., and Stuart Huffer, and to do the following:

- a. Adjudge and decree that the defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1.
- b. Adjudge and decree that the defendants violated Ind. Code § 24-1-2-1.
- c. Enjoin and restrain each defendant from adopting any future agreement, scheme, contract, or combination having a similar purpose or effect as the anticompetitive actions set forth above.
- d. Award to the State of Indiana equitable disgorgement.

- e. Award to the State of Indiana costs of the action and reasonable attorney fees, pursuant to 15 U.S.C. § 26; and
- f. Award to the State of Indiana any other just and proper equitable relief.

Respectfully submitted,

**Curtis T. Hill, Jr.**  
Attorney General of Indiana  
Atty. No. 13999-20

By: Matthew Michaloski  
Deputy Attorney General  
Atty. No. 35313-49  
Office of the Attorney General  
302 West Washington Street  
IGCS - 5th Floor  
Indianapolis, IN 46204  
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Matthew.Michaloski@atg.in.gov

## CIVIL COVER SHEET

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 NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

STATE OF INDIANA EX REL. HILL

(b) County of Residence of First Listed Plaintiff Marion

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew Michaloski, 302 West Washington Street, IGCS 5th Floor,  
Indianapolis, IN 46204, 317.234.1479**DEFENDANTS**ANDREWS CONSTRUCTION COMPANY, LLC; SCOTT ANDREWS;  
HUFFER CONSTRUCTION CO., INC.; and STUART HUFFERCounty of Residence of First Listed Defendant Marion

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Timothy DeLaney, Bose McKinney & Evans LLP, 111 Monument  
Circle Ste 2700, Indianapolis, IN 46204 (counsel for defendants  
Andrews Construction Company, LLC and Scott Andrews only)**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. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input checked="" type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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 - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 USC 1Brief description of cause:  
Agreement to rig bidding**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$  
0.00CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

12/11/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Matthew Michaloski

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_



# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

**(b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

**(c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.