STATE OF WISCONSIN **CIRCUIT COURT** **MONROE COUNTY**

MINERALS DEVELOPMENT & SUPPLY COMPANY, INC.,
an Illinois Corporation
2152 W. Roscoe Street
Chicago, Illinois 61618

HON. MICHAEL J. McALPINE
Branch II

Plaintiff,

vs.

Case No. 10CV428

HUNTON & WILLIAMS LLP,
a Washington D.C. Limited
Liability Partnership
1900 K Street Northwest
Washington, D.C. 20006

Case Code: 30301

INSIGHT EQUITY HOLDINGS, LLC,
a Texas Limited Liability Company
1400 Civic Place
Southlake, Texas 76092

INSIGHT EQUITY LP
a Texas Limited Partnership
1400 Civic Place
Southlake, Texas 76092;

FILED
JUL 30 2010
Clerk of Circuit Court
Monroe County Wisconsin

Defendants.

SUMMONS

STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, (45 days if you are the State of Wisconsin or an insurance company, 60 days if you are the United States of America), you must respond with a written

answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the Statutes. The answer must be sent or delivered to the Court, whose address is: Monroe County Clerk of Circuit Court, 112 S Court Street, Sparta, WI 54656, and to Howard, Solochek & Weber, S.C., Plaintiff's attorney, whose address is: 324 E. Wisconsin Avenue, Ste. 1100, Milwaukee, WI 53202, and telephone number is 414-272-0760. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, (45 days if you are the State of Wisconsin or an insurance company, 60 days if you are the United States of America) the Court may grant judgment against you for the award of money or other legal action requested in the Complaint; and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future any may also be enforced by garnishment or seizure of property.

Dated this 29th day of July, 2010.

By: Albert Solochek
HOWARD, SOLOCHEK & WEBER, S.C.
Albert Solochek
State Bar No. 1011075

KONICEK & DILLON, P.C.
Daniel F. Konicek
James P. Lynch

Attorneys for Plaintiff

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COMPLAINT

NOW COMES the Plaintiff, MINERALS DEVELOPMENT & SUPPLY COMPANY, INC., hereinafter referred to as "MDSC", by its attorneys, HOWARD, SOLOCHEK & WEBER, S.C.

and KONICEK & DILLON, P.C., and as and for its Complaint against the Defendants, HUNTON & WILLIAMS, LLP, hereinafter referred to as "Hunton", INSIGHT EQUITY HOLDINGS, LLC and INSIGHT EQUITY LP, hereinafter collectively referred to as "Insight Equity", states as follows:

PARTIES

1. MDSC is an Illinois corporation with offices located in Chicago, Illinois at 2152 W. Roscoe Street, Chicago, Illinois 61618.

2. HUNTON is a Washington, D.C. limited liability partnership with offices in the United States, Europe and Asia. Its principal place of business is located in Richmond, Virginia at Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219. Hunton's primary business is to provide legal services to clients.

3. INSIGHT EQUITY HOLDINGS, LLC is a domestic limited liability company in Texas with offices and its principal place of business is located in Southlake, Texas at 1400 Civic Place, Southlake, Texas, 76092. "Insight Equity" collectively is a private equity firm that makes investments in "middle market companies underperforming to their full potential."

4. INSIGHT EQUITY LP is a domestic limited partnership also in Texas with offices and its principal place of business located in Southlake, Texas at 1400 Civic Place, Southlake, Texas, 76092. "Insight Equity" collectively is a private equity firm that makes investments in "middle market companies underperforming to their full potential."

5. SUPERIOR SILICA SANDS, LLC, hereinafter referred to as "Superior" is a Texas limited liability corporation with offices located Southlake, Texas. Insight Equity is the parent owner and operator of Superior.

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6. WILDCAT COMPANIES II LLC, hereinafter referred to as "Wildcat" is a Wisconsin limited liability corporation and as of all relevant times referenced herein had an office located in Monroe County, Wisconsin.

UNDERLYING FACTS

7. Plaintiff readopts and re-alleges paragraphs 1 – 6 herein.

8. On February 13, 2009, MDSC and Superior entered into an Exclusive Supply Agreement, hereinafter the "**MDSC Contract**", by and through which MDCS agreed to sell to Superior and Superior agreed to purchase 6,750,000 tons of raw material for the production of frac sand. The MDSC Contract provides jurisdiction, venue and choice of law provisions to be that of the State of Wisconsin. The MDSC contract was to be performed in Monroe County, Wisconsin, where the mining property lies.

9. "Frac" sand is sand intended to be pumped into oil and gas wells for the purpose of reservoir stimulation, gravel packing, well bore sand control and sand plugs.

10. On February 12, 2009, MDSC and Wildcat entered into an Exclusive Supply Agreement, hereinafter the "**Wildcat Contract**", by and through which Wildcat agreed to sell to MDSC 6,750,000 tons of raw material for the production of frac sand. Thereby, creating a supply chain. The Wildcat Contract provides jurisdiction, venue and choice of law provisions to be that of the State of Wisconsin. The Wildcat contract was to be performed in Monroe County, Wisconsin, where the mining property lies.

11. At all relevant times the Hunton firm represented Superior in matters concerning both of these Contracts.

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12. On August 1, 2009, Superior purportedly terminated its Contract with MDSC (the MDSC Contract) in order to enter into negotiations directly with Wildcat, thereby disrupting the supply chain.

13. On August 6, 2009, the Hunton lawyers notified Wildcat's counsel that Wildcat must terminate its Contract with MDSC (the Wildcat Contract), if Wildcat wanted to do business directly with Superior.

14. On August 11, 2009, MDSC notified Wildcat that it was meeting with a new customer in Texas on August 12, 2009.

15. On August 12, 2009, the negotiations between Wildcat and Superior broke down over a disagreement about the termination of the Wildcat Contract. Wildcat's counsel did not believe formal notice of termination was required, but the attorneys at defendant Hunton took the position that Wildcat must send formal notice of termination to MDSC.

16. On August 13, 2009, Hunton sent a letter to Wildcat's attorney indicating that no further negotiations would occur until Wildcat confirmed it could negotiate without the restrictions of its pre-existing contract. Hunton made the new "Superior-Wildcat" Contract expressly contingent on the termination of the Wildcat Contract.

17. Ultimately, Hunton's strong arm tactics, as attorneys for Superior, were successful. As counsel for Superior, the attorneys at Hunton were able to convince Wildcat to terminate their existing contract with MDSC, the Wildcat Contract, on August 14, 2009.

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COUNT I
TORTIOUS INTERFERENCE WITH A CONTRACT—HUNTON & WILLIAMS, LLP

18. Plaintiff readopts and re-alleges paragraphs 1 through 17, herein.

19. On August 17, 2009, Wildcat's attorney promptly sent the letter requested by Superior's counsel—defendant Hunton—confirming that Wildcat no longer had any contractual restrictions preventing a new deal with Superior.

20. On August 19, 2009, Superior signed a new contract with Wildcat, through the assistance of their attorneys at Hunton. The effect was to establish a new supply chain, without MDSC, that provided for the shipment of the same frac sand to the same location. The Hunton attorneys' conduct unquestionably interfered with MDSC's contractual relationship with Wildcat.

21. Based upon information and belief, Hunton's demand that Wildcat must terminate its contact with MDSC, the Wildcat Contract, was done without authority from Superior.

22. Hunton was aware of the MDSC's separate contract with Wildcat.

23. Despite having knowledge of MDSC's contract, Hunton has intentionally interfered with MDSC's Contract with Wildcat.

24. As a result of Hunton's actions, MDSC has suffered damages in an amount in excess of $50,000.00 to be determined at trial or by motion.

25. In addition, MDSC also seeks punitive damages pursuant to Wisconsin Statute §895.043(3) as defendant Hunton has acted maliciously towards the plaintiff with an intentional disregard of plaintiff's rights.

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COUNT II
AIDING AND ABETTING THE COMMISSION OF A TORT—ALL DEFENDANTS

26. Plaintiff readopts and re-alleges paragraphs 1 through 25, herein.

27. On August 19, 2009, Superior signed a new contract with Wildcat. The effect was to establish a new supply chain, without MDSC, that provided for the shipment of the same frac sand to the same location.

28. Defendant Hunton and its attorneys were the driving force behind Superior first terminating their existing contract with plaintiff MDSC and then forcing Wildcat to terminate its existing contract with MDSC.

29. Defendant Insight Equity and Mr. Victor Vescovo of Insight Equity (and Superior) had previously acknowledged a fiduciary duty to make the best long term decisions on behalf of Superior and its supply chain partners, i.e. MDSC.

30. Mr. Vescovo, on behalf of Insight Equity, previously assured MDSC that Insight Equity professionals were "putting our money where our mouth is" and "demonstrating our continuing and long-term belief in the supply chain."

31. Instead, Mr. Vescovo, along with Mr. Brandon Bethea of Superior, worked with Hunton's lawyers to terminate the existing contract with MDSC.

32. In turn, Insight Equity through Superior entered into the new contract with Wildcat on August 19, 2009, through the efforts of Mr. Vescovo.

33. Defendants Hunton and Insight Equity assisted and aided Superior in their scheme to terminate Wildcat's relationship with MDSC and cut plaintiff MDSC out of the supply chain as a result of this new contract with Wildcat.

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34. Hunton and Mr. Vescovo of Insight Equity intended to intimidate plaintiff MDSC as an aid to their tortious interference of Wildcat's contracts with MDSC, as counsel for Superior.

35. Wisconsin law recognizes that when an attorney and/or law firm engages in conduct which they know or should know is intended to further the tortious conduct of another, that law firm may be found liable and should be found liable for aiding and abetting the commission of tortious interference.

36. The chronology unequivocally establishes that Sean Ducharme, Jeffery Edwards, Kimberly Magee, and numerous other lawyers with defendant Hunton & Williams, LLP. knew of the contract between MDSC and Wildcat and systematically aided and abetted Wildcat in terminating their existing contract with MDSC to the benefit of their firm and their client, Superior.

37. Further, Insight Equity was extensively aware of the contract between MDSC and Wildcat and systematically aided and abetted Wildcat in terminating their existing contract with MDSC to the benefit of their firm and their client, Superior.

38. As a result of both Hunton and Insight Equity's actions, MDSC has suffered damages in an amount in excess of $50,000.00 to be determined at trial or by motion.

39. In addition, MDSC also seeks punitive damages pursuant to Wisconsin Statute §895.043(3) as defendants Hunton and Insight Equity have acted maliciously towards the plaintiff with an intentional disregard of plaintiff's rights.

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COUNT III

CIVIL CONSPIRACY—HUNTON & WILLIAMS, LLP (referenced in section 134.01 of the Wisconsin Statutes)

40. Plaintiff readopts and re-alleges paragraph 1 – 39 herein.

41. MDSC asserts that defendant Hunton, as counsel for Superior, engaged in an unlawful conspiracy to cut MDSC out of the supply chain and tortiously interfere with MDSC's contract with Wildcat.

42. MDSC has learned that Superior and Wildcat have negotiated and executed new agreements which create a supply chain that does not include MDSC. The material terms of those new agreements were negotiated prior to Wildcat's decision to terminate its agreement with MDSC on August 14, 2009.

43. Attorneys at the Hunton firm were pervasively involved in advising Superior with respect to every aspect of its involvement in the old and new supply chains, as well as with Superior's efforts to initially and continuously obtain funding from its lenders.

44. Moreover, Hunton lawyers conspired with Superior to have Wildcat terminate its relationship with MDSC and enter into a new agreement directly with Superior.

45. With regard to the initial supply chain, attorneys for defendant Hunton were directly involved with the 2009 agreements.

46. Hunton lawyers were directly involved in Superior's efforts to obtain insurance and funding for its operations, both before and after execution of the February 2009 agreements. Many of the term sheets used to request funding in the second supply chain of August of 2009 specifically reference Wildcat, and appear contingent upon Superior obtaining a new contract with Wildcat.

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47. The result of this conspiracy, the new Superior-Wildcat contract, was based on the collective collusion and effort of the defendant Hunton and its client, Superior.

48. Attorneys from Hunton, including Sean Ducharme, Jeffery Edwards, Kimberly Magee, were deeply involved in the efforts to cut MDSC out of the supply chain.

49. Based upon the unlawful conspiracy between Hunton and Superior to cut MDSC out of the supply chain, plaintiff has suffered damages.

50. As a result of Hunton's actions, MDSC has suffered damages in an amount in excess of $50,000.00 to be determined at trial or by motion.

51. In addition, MDSC also seeks punitive damages pursuant to Wisconsin Statute §895.043(3) as defendant Hunton has acted maliciously towards the plaintiff with an intentional disregard of plaintiff's rights.

WHEREFORE, Plaintiff Minerals Development & Supply Company, Inc. requests judgment as follows:

A. COUNT I: For a money judgment in favor of Minerals Development & Supply Company, Inc. and against the Defendant, HUNTON & WILLIAMS LLP, in an amount in excess of $50,000.00 to be determined at trial or by motion, and for all other relief that this Court deems just and necessary.

B. COUNT II: For a money judgment in favor of Minerals Development & Supply Company, Inc. and against Defendants HUNTON & WILLIAMS LLP, INSIGHT EQUITY HOLDINGS, LLC and INSIGHT EQUITY LP, in an amount in excess of $50,000.00 to be

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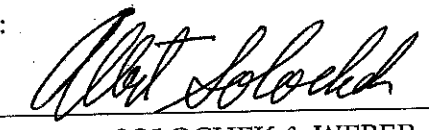
determined at trial or by motion, and for all other relief that this Court deems just and necessary.

C. COUNT III: For a money judgment in favor of Minerals Development & Supply Company, Inc. and against the Defendant, HUNTON & WILLIAMS LLP, in an amount in excess of $50,000.00 to be determined at trial or by motion, and for all other relief that this Court deems just and necessary.

Dated: July 29, 2010

MINERALS DEVELOPMENT & SUPPLY COMPANY, INC., an Illinois corporation

By: 

HOWARD SOLOCHEK & WEBER, S.C.
Albert Solochek
State Bar No. 1011075

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