

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

IN RE: TERMINATION OF LEGACY)
ANTITRUST JUDGMENTS IN THE)
NORTHERN DISTRICT OF INDIANA)
_____)

CAUSE NO. 2:19-MC-71-TLS

Consolidating:

UNITED STATES OF AMERICA,)
Plaintiff,)

v.)

Civil Action No. 545

AMERICAN LOCOMOTIVE)
COMPANY, ET AL.,)
Defendants.)
_____)

UNITED STATES OF AMERICA,)
Plaintiff,)

v.)

Civil Action No. 262

GASOLINE RETAILERS)
ASSOCIATION, ET AL.,)
Defendants.)
_____)

UNITED STATES OF AMERICA,)
Plaintiff,)

v.)

Civil No. 114

NATIONAL HOMES CORPORATION,)
Defendant.)
_____)

UNITED STATES OF AMERICA,)
Plaintiff,)

v.)

Civil Action No. 1927

ESSEX WIRE CORP.,)
Defendant.)

ORDER

In 2018, the Antitrust Division of the United States Department of Justice (hereinafter “Government”) announced its intention to review and terminate legacy antitrust judgments that no longer protect competition. As part of those efforts in this District, the Government identified

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5 judgments entered between 72 and 40 years ago in the above-captioned cases. On October 10, 2018, the Government listed each of these judgments on its public website, described its intent to move to terminate the judgments and invited public comment. www.justice.gov/atr/judgment-termination-initiative-indiana-northern-district. (last visited Oct. 11, 2019). No comments were received opposing termination. Government Memorandum, ECF No. 2 at p. 3. The Government has now filed a motion [ECF No. 1] to terminate these 5 judgments pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

Here is a brief summary of the judgments at issue: In *United States v. American Locomotive Co.*, the Court entered two judgments in 1947, which enjoined the defendants from fixing prices and terms of sale of springs and plates on railway products, required a trade association to confine its operations to certain activities, and required the defendants to license their patents on spring plates at reasonable royalty rates. Appendix A, ECF No. 2-1 at pp. 2-11. In *United States v. Gasoline Retailers Assoc.*, the Court entered a judgment in 1961, which enjoined the defendants from engaging in a conspiracy to fix retail gasoline prices and also dissolved all price fixing agreements between the parties. *Id.* at pp. 12-18. In *United States v. National Homes Corp.*, the Court entered a judgment in 1962, which required the defendant to divest four manufacturers of prefabricated houses and enjoined the defendant for five years from acquiring any manufacturer of prefabricated houses. *Id.* at pp. 19-23. In *United States v. Essex Wire Corp.*, the Court entered a judgment in 1967, which enjoined the defendant from tying the sale of magnet wire to other products. *Id.* at pp. 24-27.

In the instant motion, the Government seeks to terminate each of the judgments pursuant to Rule 60(b)(5) and (b)(6) of the Federal Rules of Civil Procedure, which provides that, “[o]n motion and just terms, the court may relieve a party . . . from a final judgment . . . (5) [when] applying it prospectively is no longer equitable; or (6) for any other reason that justifies relief.” A motion under Rule 60(b)(5) may be granted “when the party seeking relief from an injunction

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or consent decree can show ‘a significant change either in factual conditions or in law.’” *Agostini v. Felton*, 521 U.S. 367, 384 (1997) (quotation omitted). Rule 60(b)(6) is residual to the other grounds listed in Rule 60(b) and to be used for “any other reason that justifies relief.”

The Government argues that it is appropriate to terminate the judgments issued in each of these cases because they no longer serve their original purpose of protecting competition. Because all of the judgments are decades old, the Government asserts that their age alone justifies their termination. ECF No. 2 at p. 9. Nevertheless, the Government sets out additional reasons for termination. For the judgments in *American Locomotive*, the Government has determined that the terms of the judgment no longer serve any purpose because the patents underlying the judgment have expired. *Id.* at pp. 9-12. The Government also explains that the prohibited acts largely recite conduct that the antitrust laws already prohibit. *Id.* For the judgment in *Gasoline Retailers*, the Government has determined that the price fixing conspiracy ended decades ago such that the judgment no longer protects competition. *Id.* at pp. 10-12. Here, too, the Government explains that the prohibited acts largely recite conduct that the antitrust laws already prohibit. *Id.* And, for the judgment in *National Homes*, the Government asserts that the requirements of the judgment have lapsed or been met, rendering them satisfied in full. *Id.* at 9. In addition to all of these reasons, the Government points out that it received no opposition to the termination of any of these judgments during the public comment period. *Id.* at p. 12.

Considering the age of the judgments, the changed factual and legal circumstances since their entry, and no opposition to their termination, the Court finds the termination of the five judgments to be appropriate. Notably, the Government has made similar arguments in cases throughout the country. Other district courts to consider these arguments have found terminating judgments to be proper as well. *See In re Termination of Legacy Antitrust Judgments in Northern California*, Case No. 19-mc-80147, 2019 WL 3254223 (N.D. Cal. July 19, 2019) (terminating 37 judgments); *United States v. American Amusement Ticket Mfrs. Ass’n*, Case No. 1:18-mc-91,

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2018 WL 7338862 (D.D.C. Aug. 15, 2018) (terminating 19 judgments); *National Audio-Visual
Ass'n v. Bank of Va.*, Case No. 2:18-mc-33, 2018 LEXIS 221590 (E.D. Va. Nov. 21, 2018).

For these reasons, the Government's motion [ECF No. 1] to terminate the judgments in
the above-captioned cases is **GRANTED**.

SO ORDERED on October 30, 2019.

/s/ Theresa L. Springmann
CHIEF JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT