

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,
Plaintiff,

v.

NORTHERN SECURITIES CO., *et al.*,
Defendants;

Equity No. 789

UNITED STATES OF AMERICA,
Plaintiff,

v.

GENERAL PAPER CO., *et al.*,
Defendants;

Civil Action No. 813

UNITED STATES OF AMERICA,
Plaintiff,

v.

WILLARD G. HOLLIS, *et al.*,
Defendants;

Civil Action No. 1079

UNITED STATES OF AMERICA,
Plaintiff,

v.

THE KLEARFLAX LINEN LOOMS, INC.,
Defendant;

Civil Action No. 429

UNITED STATES OF AMERICA,
Plaintiff,

v.

INVESTORS DIVERSIFIED
SERVICES, INC., *et al.*,
Defendants;

Civil Action No. 3713

UNITED STATES OF AMERICA,
Plaintiff,

v.

MINNEAPOLIS ELECTRICAL
CONTRACTORS ASS'N., *et al.*,
Defendant;

Civil Action No. 3715

UNITED STATES OF AMERICA,
Plaintiff,

v.

NORTHLAND MILK &
ICE CREAM CO., *et al.*,
Defendant;

Civil Action No. 4361

UNITED STATES OF AMERICA,
Plaintiff,

v.

MORTON SALT COMPANY, *et al.*,
Defendants;

Civil Action No. 4-61 Civ. 162

UNITED STATES OF AMERICA,
Plaintiff,

v.

MINNEAPOLIS-HONEYWELL
REGULATOR CO., *et al.*,
Defendants;

Civil Action No. 4-62 Civ. 348

UNITED STATES OF AMERICA,
Plaintiff,

v.

NORTHWESTERN NATIONAL
BANK OF MINNEAPOLIS, *et al.*,
Defendants;

Civil Action No. 4-63 Civ. 52

UNITED STATES OF AMERICA,
Plaintiff,

v.

THE FIRST NATIONAL BANK OF
SAINT PAUL, *et al.*,
Defendants;

Civil Action No. 3-63 Civ. 37

UNITED STATES OF AMERICA,
Plaintiff,

v.

THE DULUTH CLEARING HOUSE
ASSOC., *et al.*,
Defendants;

Civil Action No. 5-63 Civ. 4

UNITED STATES OF AMERICA,
Plaintiff,

v.

OTTER TAIL POWER COMPANY,
Defendant;

Civil Action No. 6-69-139

UNITED STATES OF AMERICA,
Plaintiff,

v.

NORTHERN NATURAL GAS
COMPANY,
Defendant;

Civil Action No. 5-70-20

UNITED STATES OF AMERICA,
Plaintiff,

v.

BURLINGTON NORTHERN, INC.,
Defendant;

Civil Action No. 3-70-361

UNITED STATES OF AMERICA,
Plaintiff,

v.

BEATRICE FOODS CO., *et al.*,
Defendants;

Civil Action No. 3-80-596

**THE UNITED STATES' MOTION AND MEMORANDUM
REGARDING TERMINATION OF LEGACY ANTITRUST JUDGMENTS**

The United States moves to terminate the judgments in each of the above-captioned antitrust cases pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. This Court, or for the earliest cases, the United States Circuit Court,¹ entered the judgments between 37 and 116 years ago. The United States has concluded that because of their age and changed circumstances since their entry, these judgments no longer serve to protect competition. The United States gave the public notice and the opportunity to comment on its intent to seek termination of the judgments; it received no comments. For these and other reasons explained below, the United States requests that the judgments be terminated.

I. BACKGROUND

From 1890, when the antitrust laws were first enacted, until the late 1970s, the United States frequently sought entry of antitrust judgments whose terms never expired.² Such perpetual judgments were the norm until 1979, when the Antitrust Division of the United States Department of Justice (“Antitrust Division”) adopted the practice of including a term limit of ten years in nearly all of its antitrust judgments.³ Perpetual judgments entered before the policy change, however, remain in effect indefinitely unless a court terminates them. Although a

¹ The U.S. Circuit Courts, established under the Judiciary Act of 1789, operated as both trial and appellate courts for most of the 19th Century. Congress abolished the circuit courts when it reorganized the federal judiciary under the Judicial Code of 1911. *See The U.S. Circuit Courts and the Federal Judiciary*, FEDERAL JUDICIAL CENTER, <https://www.fjc.gov/history/courts/u.s.-circuit-courts-and-federal-judiciary>. Sections 290 and 291 of the Judicial Code provided that all suits in the U.S. Circuit Courts would be transferred to the newly created District Courts, and any power conferred upon a Circuit Court would thereafter rest with the District Court. *See* 36 Stat. 1087, 1167.

² The primary antitrust laws are the Sherman Act, 15 U.S.C. §§ 1–7, and the Clayton Act, 15 U.S.C. §§ 12–27. The judgments the United States seeks to terminate with the accompanying motion concern violations of both of these laws.

³ The judgment *Beatrice Foods*, Civil Action No. 3-80-596, was entered in 1982 and is one of the few exceptions in which antitrust final judgments entered after 1979 did not have a ten year limit on its terms. For the reasons set forth below, we recommend that it be terminated along with the other judgments discussed in this memo.

defendant may move a court to terminate a perpetual judgment, few defendants have done so. There are many possible reasons for this, including that defendants may not have been willing to bear the costs and time resources to seek termination, defendants may have lost track of decades-old judgments, individual defendants may have passed away, or company defendants may have gone out of business. As a result, hundreds of these legacy judgments remain open on the dockets of courts around the country. Originally intended to prevent the loss of competition arising from violations of the antitrust laws, none of these judgments likely continues to do so because of changed circumstances.

The Antitrust Division has implemented a program to review and, when appropriate, seek termination of legacy judgments. The Antitrust Division's Judgment Termination Initiative involved a review of all its outstanding perpetual antitrust judgments. The Antitrust Division described the initiative in a statement published in the Federal Register.⁴ In addition, the Antitrust Division established a website to keep the public apprised of its efforts to terminate perpetual judgments that no longer serve to protect competition.⁵ The United States believes that its outstanding perpetual antitrust judgments presumptively should be terminated; nevertheless, the Antitrust Division is examining each judgment to ensure that it is suitable for termination. The Antitrust Division is giving the public notice of—and the opportunity to comment on—its intention to seek termination of its perpetual judgments.

In brief, the process the United States is following to determine whether to move to terminate a perpetual antitrust judgment is as follows:

⁴ Department of Justice's Initiative to Seek Termination of Legacy Antitrust Judgments, 83 Fed. Reg. 19,837 (May 4, 2018), <https://www.gpo.gov/fdsys/granule/FR-2018-05-04/2018-09461>.

⁵ *Judgment Termination Initiative*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/atr/JudgmentTermination>.

- The Antitrust Division reviews each perpetual judgment to determine whether it no longer serves to protect competition such that termination would be appropriate.
- If the Antitrust Division determines a judgment is suitable for termination, it posts the name of the case and the judgment on its public Judgment Termination Initiative website, <https://www.justice.gov/atr/JudgmentTermination>.
- The public has the opportunity to comment on each proposed termination within thirty days of the date the case name and judgment are posted to the public website.
- Following review of public comments, the Antitrust Division determines whether the judgment still warrants termination; if so, the United States moves to terminate it.

The United States followed this process for each judgment it seeks to terminate by this motion.⁶

The remainder of this motion is organized as follows: Section II describes the Court’s jurisdiction to terminate the judgments in the above-captioned cases and the applicable legal standards for terminating the judgments. Section III explains that perpetual judgments rarely serve to protect competition and that those that are more than ten years old presumptively should be terminated. Section III also presents factual support for termination of each judgment. Section IV concludes. Appendix A attaches a copy of each final judgment that the United States seeks to terminate. Finally, Appendix B is a proposed order terminating the final judgments.

II. APPLICABLE LEGAL STANDARDS FOR TERMINATING THE JUDGMENTS

This Court has jurisdiction and authority to terminate the judgments in the above-captioned cases. A copy of each judgment is included in Appendix A. In fourteen cases, the judgment provides that the Court retains jurisdiction. Jurisdiction was not explicitly retained in

⁶ The United States followed this process to move several dozen other district courts to terminate legacy antitrust judgments. *See, e.g., In re: Termination of Legacy Antitrust Judgments in the Southern District of Iowa*, Case No. 4:19-mc-00012-JAJ (S.D. Iowa Apr. 8, 2019) (terminating two judgments); *United States v. Armco Drainage & Metal Products, Inc.*, Case No. 3804 (D.N.D. Apr. 9, 2019) (terminating one judgment); *United States v. Ed Phillips & Sons Co., et al.*, No. 8:73-cv-00144-LSC-SMB (D. Neb. Apr. 26, 2019) (terminating four judgments); *United States v. Am. Amusement Ticket Mfrs. Ass’n*, Case 1:18-mc-00091 (D.D.C. Aug. 15, 2018) (terminating nineteen judgments).

three⁷ of the above-captioned cases, but it has long been recognized that courts are vested with inherent power to modify judgments they have issued which regulate future conduct.⁸ In addition, the Federal Rules of Civil Procedure grant the Court authority to terminate each judgment. Rule 60(b)(5) and (b)(6) 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.” Fed. R. Civ. P. 60(b)(5)–(6); *see McDonald v. Armontrout*, 908 F.2d 388, 390 (8th Cir. 1990) (“The district court retains authority over a consent decree, including the power to modify the decree in light of changed circumstances, and is subject to only a limited check by the reviewing court”).

Thus, the Court may terminate each judgment for any reason that justifies relief, including that the judgment no longer serves its original purpose of protecting competition.⁹ Termination of these judgments is warranted.

III. ARGUMENT

It is appropriate to terminate the perpetual judgments in each the above-captioned cases because they no longer serve their original purpose of protecting competition. The United States

⁷ *United States v. Northern Securities Co.*, 120 F. 721, 731 (C.C.D. Minn. 1903) (No. 789), *aff'd*, 193 U.S. 197 (1904); *United States v. Gen. Paper Co.*, No. 813 (C.C.D. Minn. 1906); *United States v. Hollis*, No. 1079 (D. Minn. 1917).

⁸ *See United States v. Swift & Company*, 286 U.S. 106, 114-15 (1932) (“We are not doubtful of the power of a court of equity to modify an injunction in adaptation to changed conditions, though it was entered by consent. . . . Power to modify the decree was reserved by its very terms, and so from the beginning went hand in hand with its restraints. If the reservation had been omitted, power there still would be by force of principles inherent in the jurisdiction of the chancery. A continuing decree of injunction directed to events to come is subject always to adaptation as events may shape the need.”) (citations omitted); *see also Smith v. Bd. of Educ. of Palestine-Wheatley Sch. Dist.*, 769 F.3d 566, 572 (8th Cir. 2014) (“federal courts of equity [have] substantial flexibility to adapt their decrees to changes in the facts or law”).

⁹ In light of the circumstances surrounding the judgments for which it seeks termination, the United States does not believe it is necessary for the Court to make an extensive inquiry into the facts of each judgment to terminate them under Fed. R. Civ. P. 60(b)(5) or (b)(6). All of these judgments would have terminated long ago if the Antitrust Division had the foresight to limit them to ten years in duration as under its policy adopted in 1979. Moreover, the passage of decades and changed circumstance since their entry, as described in this memorandum, means that it is likely that the judgments no longer serve their original purpose of protecting competition.

believes that the judgments presumptively should be terminated because their age alone suggests they no longer protect competition. Other reasons, however, also weigh in favor of terminating them. Under such circumstances, the Court may terminate the judgments pursuant to Rule 60(b)(5) or (b)(6) of the Federal Rules of Civil Procedure.

A. The Judgments Presumptively Should Be Terminated Because of Their Age

Permanent antitrust injunctions rarely serve to protect competition. The experience of the United States in enforcing the antitrust laws has shown that with the passage of decades markets almost always evolve in response to competitive and technological changes. These changes may make the prohibitions of decades-old judgments either irrelevant to, or inconsistent with, competition. These considerations, among others, led the Antitrust Division in 1979 to establish its policy of generally including in each judgment a term automatically terminating the judgment after no more than ten years.¹⁰ The judgments in the above-captioned matters—all of which are decades old—presumptively should be terminated for the reasons that led the Antitrust Division to adopt its 1979 policy of generally limiting judgments to a term of ten years.

B. The Judgments Should Be Terminated Because They Are Unnecessary

In addition to age, other reasons weigh heavily in favor of terminating each judgment. Based on its examination of the judgments, the Antitrust Division has determined that each should be terminated for one or more of the following reasons:

- All requirements of the judgment have been met such that it has been satisfied in full. In such a case, termination of the judgment is a housekeeping action: it will allow the Court to clear its docket of a judgment that should have been terminated long ago but for the failure to include a term automatically terminating it upon satisfaction of its terms.
- Most defendants likely no longer exist. With the passage of time, many of the company defendants in these actions likely have gone out of existence, and many

¹⁰ U.S. DEP'T OF JUSTICE, ANTITRUST DIVISION MANUAL at III-147 (5th ed. 2008), <https://www.justice.gov/atr/division-manual>.

individual defendants likely have passed away. To the extent that defendants no longer exist, the related judgment serves no purpose and should be terminated.

- The judgment prohibits acts that the antitrust laws already prohibit, such as fixing prices, allocating markets, rigging bids, or engaging in group boycotts. These prohibitions amount to little more than an admonition that defendants must not violate the law. Absent such terms, defendants still are deterred from violating the law by the possibility of imprisonment, significant criminal fines, and treble damages in private follow-on litigation; a mere admonition to not violate the law adds little additional deterrence. To the extent a judgment includes terms that do little to deter anticompetitive acts, it should be terminated.
- Market conditions likely have changed such that the judgment no longer protects competition or may even be anticompetitive. For example, the subsequent development of new products may render a market more competitive than it was at the time the judgment was entered or may even eliminate a market altogether, making the judgment irrelevant. In some circumstances, a judgment may impede the kind of adaptation to change that is the hallmark of competition, rendering it anticompetitive. Such judgments clearly should be terminated.

Additional reasons specific to each judgment are set forth below:

1. *United States v. Northern Securities Co.*, 120 F. 721, 731 (C.C.D. Minn. 1903) (No. 789)

The court entered this judgment in 1903. *See* Appendix A-1. The United States initiated the lawsuit after the Northern Securities Company acquired controlling shares in two competing railroads. In the accompanying opinion, the Circuit Court concluded that the acquisition “destroyed every motive for competition” between the two firms. *Northern Securities Co.*, 120 F. at 724. The decree enjoined Northern Securities from acquiring more stock, from voting its current shares, exercising control over the railroads, or receiving dividends from the shares. *Id.* at 732. The Supreme Court affirmed the decision. *Northern Securities Co. v. United States*, 193 U.S. 197 (1904). Following the passage of the Transportation Act of 1920, expanding the power of the Interstate Commerce Commission to regulate the railroad industry, the firms sought to merge several more times, as recounted in the Supreme Court’s decision in *United States v. ICC*, 396 U.S. 491, 498 (1970). Under the later regulatory standard, the court affirmed the decision by

the Interstate Commerce Commission to permit the merger. *Id.* at 494. This court should terminate the 1903 judgment in *Northern Securities* because of its age and because the named individual defendants are deceased, but also because market conditions and the regulatory framework for this industry have long since changed.

2. *United States v. Gen. Paper Co.*, No. 813 (C.C.D. Minn. 1906)

The court entered this judgment in 1906. *See* Appendix A-2. General Paper Company had entered into contracts with other paper companies to be the exclusive selling agent for the firms, fixing the price and determining the output of each. The decree prohibited the twenty-five defendants from price fixing and allocating the market for newsprint, manila, paper fiber, and other paper products among the several states. The decree annulled the contracts among them, and enjoined any similar future agreements. This court should terminate the judgment in *General Paper* because of its age, and because the terms of the decree prohibit acts the antitrust laws already prohibit (price fixing and market allocation).

3. *United States v. Hollis*, No. 1079 (D. Minn. 1917)

The court entered this judgment in 1917. *See* Appendix A-3. Defendants were individuals and business entities who acted in concert to control the interstate commerce in lumber and lumber products. The conspiracy sought to allocate customers by preventing manufacturers and wholesale lumber yards from selling lumber directly to end users. The decree enjoined the defendants from further agreements and actions for the purpose of inducing manufacturers, producers, or dealers not to sell lumber products. This court should terminate the decree in *Hollis* because of its age and because the named individuals are likely deceased, but also because the terms of the decree largely prohibit behavior which the antitrust laws already prohibit (price fixing, market allocation, and group boycotts).

4. *United States v. The Klearflax Linen Looms, Inc.*, No. 429 (D. Minn. 1945)

The court entered this judgment in 1945. *See* Appendix A-4. The court explicitly retained jurisdiction in paragraph 4 of the judgment. *Id.* Defendant in this case had sought to monopolize the sales of linen rugs to the United States government by controlling who bid on the contracts. The decree forbid bid rigging on the government contracts, as well as any related conduct such as refusals to deal with customers who independently bid on the contracts. This court should terminate the decree in *Klearflax* because of its age, because the defendant entity ceased operations in 1953, and because the terms of the decree largely prohibit behavior which the antitrust laws already prohibit (bid rigging).

5. *United States v. Investors Diversified Services, Inc.*, No. 3713 (D. Minn. 1954)

The court entered this judgment in 1954. *See* Appendix A-5. The court explicitly retained jurisdiction in Section IX of the judgment. *Id.* The defendants sold hazard insurance to individuals in connection with obtaining a mortgage. The decree annulled existing insurance contracts and enjoined defendants from conditioning future mortgage loans on a requirement that the borrower select a particular issuer of hazard insurance. This court should terminate this decree because of its age, but also because market conditions and the regulatory framework in the lending industry have changed since the decree was issued.

6. *United States v. Minneapolis Elec. Contractors Ass'n*, No. 3715 (D. Minn. 1953)

The court entered this judgment in 1953. *See* Appendix A-6. The court explicitly retained jurisdiction in Section XII of the judgment. *Id.* Defendants in this case were various electrical contractors' associations, an individual, and an electrical workers' union who had established a conspiracy to control the sale of electrical equipment. The decree enjoined defendants from refusing to sell electrical equipment non-participants, or otherwise restricting the sale of such

equipment to those in the scheme. The court should terminate the judgment because of its age, but also because the terms largely prohibit acts the antitrust laws already prohibit (group boycotts).

7. *United States v. Northland Milk & Ice Cream Co.*, No. 4631 (D. Minn. 1957)

The court entered two judgments in this case, one in 1955 and a second in 1957, following a trial for the milk drivers and dairy employee union. *See* Appendix A-7. The court explicitly retained jurisdiction in Sections XIV and VII of the judgments. *Id.* The 1955 decree prohibited the dairy distributors from fixing the price of milk products, from coercing others not to sell milk products, from allocating milk customers, from establishing interlocking directorates, or from acquiring stock in other distributors where such acquisition might lessen competition. The 1957 order prohibited the union from price fixing or inducing stores, vendors, or distributors to price-fix. The court should terminate these judgments because of their age, but also because the terms largely prohibit actions the antitrust laws already prohibit (price fixing and market allocation).

8. *United States v. Morton Salt Co.*, No. 4-61 Civ. 162 (D. Minn. 1965)

The court entered three judgments in this case as various parties reached settlement agreements. *See* Appendix A-8. The first was in 1962, regarding the Carey Salt Company. The second was in 1963, regarding the International Salt Company. And the third was in 1965, resolving the litigation for the Morton Salt Company and the Diamond Crystal Salt Company. The court explicitly retained jurisdiction in Sections IX, IX, and XI of the respective judgments. *Id.* The decrees prohibited defendant companies from fixing the price of rock salt, or rigging bids for the sale of rock salt. The court should terminate these judgments because of their age, but

also because the terms largely prohibit actions the antitrust laws already prohibit (price fixing and bid rigging).

9. United States v. Minneapolis-Honeywell Regulator Co., No. 4-62 Civ. 348 (D. Minn. 1964)

The court entered this judgment in 1964. *See* Appendix A-9. The court explicitly retained jurisdiction in Section XI of the judgment. *Id.* The defendant firms manufactured and distributed temperature control systems for buildings. The decree prohibited defendants from price fixing, bid rigging, and allocating customers. The court should terminate this judgment because of its age, but also because the terms largely prohibit actions the antitrust laws already prohibit (price fixing, bid rigging, and customer allocation).

10. United States v. Nw. Nat'l Bank of Minneapolis, No. 4-63 Civ. 52 (D. Minn. 1964)

The court entered this judgment in 1964. *See* Appendix A-10. The court explicitly retained jurisdiction in Section VIII of the judgment. *Id.* The decree enjoined the defendants, eleven commercial banks, from price fixing interest rates on loans and allocating customers. The court should terminate this judgment because of its age, but also because the terms largely prohibit actions the antitrust laws already prohibit (price fixing and customer allocation).

11. United States v. The First Nat'l Bank of Saint Paul, No. 3-63 Civ. 37 (D. Minn. 1964)

The court entered this judgment in 1964. *See* Appendix A-11. The court explicitly retained jurisdiction in Section VIII of the judgment. *Id.* The decree enjoined the defendants, eight commercial banks, from price fixing with regard to service charges to depositors. The court should terminate this judgment because of its age, but also because the terms largely prohibit actions the antitrust laws already prohibit (price fixing).

12. *United States v. The Duluth Clearing House Ass'n*, No. 5-63 Civ. 4 (D. Minn. 1964)

The court entered this judgment in 1964. *See* Appendix A-12. The court explicitly retained jurisdiction in Section IX of the judgment. *Id.* Defendants were four banks and a banking clearinghouse association. The decree enjoined the defendants from price fixing with regard to interest rates and service charges to depositors. The court should terminate this judgment because of its age, but also because the terms largely prohibit actions the antitrust laws already prohibit (price fixing).

13. *United States v. Otter Tail Power Co.*, No. 6-69-139 (D. Minn. 1971)

The court entered this judgment in 1971. *See* Appendix A-13. The court explicitly retained jurisdiction in Section VII of the judgment. *Id.* The defendant, Otter Tail Power Company, was an electric utility, and following a trial, the district court concluded that the defendant violated the Sherman Act in its various attempts to prevent local governments from building a municipal electrical distribution system. The decree prohibits refusals to sell wholesale electricity, refusal to transmit electricity to existing municipal systems, and engaging in litigation to interfere with municipalities seeking to establish their own electric power systems. On appeal, the Supreme Court affirmed the district court. *See Otter Tail Power Co. v. United States*, 410 U.S. 366, 382 (1973). In 1978, the district court modified the decree to permit Otter Tail to institute specific litigation involving a municipality. *See* Appendix A-13. The court should terminate this judgment because of its age, but also because the regulatory framework for this industry has changed substantially, including regulation by the Federal Energy Regulatory Commission pertaining to wholesale electric sales.

14. United States v. N. Natural Gas Co., No. 5-70-20 (D. Minn. 1970)

The court entered this judgment in 1970. *See* Appendix A-14. The court explicitly retained jurisdiction in Section VIII of the judgment. *Id.* Defendant was a natural gas pipeline company serving industrial customers. The decree enjoined Northern Natural Gas from employing contracts with customers that give it a prior right to sell any additional volumes of natural gas to the customer, and from limiting natural gas distributing companies' ability to resell gas to industrial customers. The court should terminate this judgment because of its age, but also because, at nearly fifty years old, it is well past the age where an antitrust judgment presumptively becomes either irrelevant to, or inconsistent with, competition. If the Antitrust Division learns of the defendants engaging in unlawful behavior in the future, it has all the investigative and prosecutorial powers necessary to ensure that competition is not harmed.

15. United States v. Burlington Northern, Inc., No. 3-70-361 (D. Minn. 1971)

The court entered this judgment in 1971. *See* Appendix A-15. The court explicitly retained jurisdiction in Section VII of the judgment. *Id.* The defendant railroad in this case, Burlington Northern, was a successor to the companies identified in *Northern Securities Co.*, 120 F. 721 (C.C.D. Minn. 1903) (No. 789) (Appendix A-1). The conduct in this case involved Burlington Northern placing provisions in "spur track agreements" with customers that restricted the customer's ability to choose a different rail carrier or mode of transportation. The decree annulled contract provisions with restrictive-choice-of-carrier provisions, and enjoined Burlington Northern from entering into any such agreements. The court should terminate this judgment because of its age, but also because, at nearly fifty years old, it is well past the age where an antitrust judgment presumptively becomes either irrelevant to, or inconsistent with, competition. If the Antitrust Division learns of the defendants engaging in unlawful behavior in

the future, it has all the investigative and prosecutorial powers necessary to ensure that competition is not harmed.

16. United States v. Gen. Cinema Corp., No. 4-71 C 473 (D. Minn. 1973)

The court entered this judgment in 1973. *See* Appendix A-16. The court explicitly retained jurisdiction in Section VII of the judgment. *Id.* The United States filed a complaint alleging that the acquisition of a number of theaters in the Minneapolis and St. Paul area violated the Clayton Act. The court agreed and issued a decree requiring divestiture of the theaters. This court should terminate this judgment because all the requirements of the judgment have been met and satisfied in full.

17. United States v. Beatrice Foods Co., No. 3-80-596 (D. Minn. 1982)

The court entered this judgment in 1982. *See* Appendix A-17. The court explicitly retained jurisdiction in Section X of the judgment. *Id.* In this case, Beatrice Foods sought to acquire Fiberite Corporation. As a condition of allowing the acquisition to proceed, this decree required the divestiture of Fiberite Corporation's thermoplastic compounding business. The divestiture was accomplished. This court should terminate this judgment because all the requirements of the judgment have been met and satisfied in full.

C. There Has Been No Public Opposition to Termination

The United States has provided adequate notice to the public regarding its intent to seek termination of the judgments. On April 25, 2018, the Antitrust Division issued a press release announcing its efforts to review and terminate legacy antitrust judgments.¹¹ On November 30, 2018, the Antitrust Division listed the judgments in the above-captioned cases on its public

¹¹ Press Release, *Department of Justice Announces Initiative to Terminate "Legacy" Antitrust Judgments*, U.S. DEP'T OF JUSTICE (April 25, 2018), <https://www.justice.gov/opa/pr/department-justice-announces-initiative-terminate-legacy-antitrust-judgments>.

website, describing its intent to move to terminate the judgments.¹² The notice identified each case, linked to the judgment, and invited public comment. No comments have been received for the cases in this district.

IV. CONCLUSION

For the foregoing reasons, the United States believes termination of the judgments in each of the above-captioned cases is appropriate, and respectfully requests that the Court enter an order terminating them. A proposed order terminating the judgments in the above-captioned cases is attached as Appendix B.

Respectfully submitted,

Dated: May 20, 2019

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¹² *Judgment Termination Initiative*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/atr/JudgmentTermination>; *Judgment Termination Initiative: Minnesota District*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/atr/judgment-termination-initiative-minnesota-district> (last checked April 18, 2019).