

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

-----  
IN RE: COPPER ANTITRUST LITIGATION

M.D.L. Docket No. 1303

-----  
SOUTHWIRE COMPANY and GASTON  
COPPER RECYCLING CORPORATION,

ORDER

Plaintiffs,

02-C-0707-C

v.

J.P. MORGAN CHASE & CO., as successor  
to J.P. MORGAN & CO., INC.; MORGAN  
GUARANTY TRUST COMPANY OF NEW  
YORK; SUMITOMO CORPORATION;  
SUMITOMO CORPORATION OF AMERICA;  
YASUO HAMANAKA; and GLOBAL MINERALS  
AND METALS CORPORATION,

Defendants.

-----  
Defendants Sumitomo Corporation and Global Minerals and Metals Corporation  
have moved for an order setting a schedule for the filing of opposition and reply briefs in  
connection with defendants' motion to dismiss the first amended complaint. Unlike  
defendants J.P. Morgan Chase & Co. and Morgan Guaranty Trust Company of New York,

defendants Sumitomo Corporation and Global Minerals and Metals never sought or received permission to file a motion to dismiss the complaint. I remain unpersuaded that motions to dismiss are helpful in this litigation. Therefore, I will deny the implied request to file a motion to dismiss, rendering moot the motion to set a schedule. The parties should concentrate their efforts on the motions for summary judgment.

I am willing to reconsider this ruling if the parties can persuade me that 1) their motion is limited to statute of limitations issues; 2) the statute of limitations issue can be resolved on a motion to dismiss (which will require a showing that no matter extraneous to the complaint will need to be considered by the court); and 3) that the chances of success by the moving parties are strong enough to warrant the expenditure of time by the court and by counsel on a motion to dismiss.

I apologize to counsel for not catching this issue as soon as the motion was filed and also for the apparently inconsistent information that was reflected on PACER.

Entered this 15th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge