

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REPLENIUM INC.,

Plaintiff,

v.

ALBERTSONS COMPANIES, INC.,

Defendant.

CASE NO. 2:24-cv-1281

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Plaintiff Replenium Inc. (“Replenium” or “Plaintiff”), by and through its undersigned attorneys, makes the following factual allegations applicable to each cause of action pled herein against Defendant Albertsons Companies, Inc. (“Albertsons” or “Defendant”).

PRELIMINARY STATEMENT

1. Replenium brings this action against Albertsons for misappropriation of trade secrets, breach of contract, breach of the implied covenant of good faith and fair dealing, promissory estoppel, and unjust enrichment, based on Albertsons’ systematic theft of Replenium’s trade secret and confidential information for the purpose of building a system to replace and compete with Replenium.

2. Replenium is a Seattle-based software-as-a-service (“SaaS”) company that provides groundbreaking auto-replenishment services to grocery retailers based on Replenium’s trade secret technology, know-how, and processes. Replenium’s auto-replenishment platform (the

1 “Replenium Platform”) provides grocery retailers with the unique ability to offer customers full
2 grocery basket, auto-replenishment services that drive customer purchases and promote long-term
3 customer retention for both retailers and brands.

4 3. In October 2020, Replenium entered a SaaS contract with Albertsons, the second
5 largest supermarket chain in North America, to launch the Replenium Platform, a first-of-its-kind,
6 auto-replenishment solution that would enable Albertsons’ customers to automatically replenish
7 their grocery purchases across a full basket of grocery items. Under the agreement and
8 accompanying Statement of Work (“SOW”) (referred to collectively as the “MSA”), Albertsons
9 agreed to pay Replenium service fees based upon the net revenue generated through Albertsons’
10 customers’ replenishment orders. The parties entered a mutual non-disclosure agreement (the
11 “MNDA”) to protect confidential information shared in connection with the Replenium Platform.

12 4. The MSA anticipated Albertsons launching the Replenium Platform for Albertsons’
13 customers in December 2020. From the inception of the MSA, Albertsons represented to
14 Replenium that it intended to expand the Replenium Platform nationwide, across its twenty-two
15 banners, including Safeway, and over 2,200 stores across approximately 34 states and the District
16 of Columbia.

17 5. Albertsons internally and externally described the Replenium Platform as “industry
18 revolutionizing” and proclaimed that “no other grocer is doing it yet.” Albertsons further stated
19 that “the customer benefits, the financial benefits, and the ability to be first to market make this a
20 top priority for the company.” It described the Replenium Platform’s value in terms of growing its
21 customers’ purchases: “When customers can subscribe to their usuals, they inherently become
22 more loyal, driving approximately one additional trip per quarter and a 15 percent spend increase.”

23 6. Despite Albertsons’ representations to Replenium and enthusiasm for the
24 Replenium Platform, Albertsons delayed its launch and expansion for nearly three years. During
25 that time, Albertsons made false promises and unscrupulously leveraged its market power to
26 induce Replenium to (i) continue to invest in implementing the Replenium Platform, while

1 withstanding millions of dollars of losses directly attributable to its support for Albertsons, and (ii)
2 share trade secret and confidential information, under the parties' MNDA and MSA, relating to the
3 technology, know-how, and processes underlying the Replenium Platform.

4 7. Even as Albertsons repeatedly delayed launching the Replenium Platform,
5 Albertsons induced Replenium's ongoing investment of resources and confidential information
6 sharing based on its internal and external statements that it planned a launch and nationwide
7 expansion of the Replenium Platform. For example, in December 2021, Albertsons issued a press
8 release about its planned nationwide rollout of the Replenium Platform, stating that Schedule &
9 Save was "developed in partnership with auto-replenishment and predictive shopping platform
10 Replenium" and was part of "Albertsons Cos.' ongoing goal to revolutionize its digital offerings
11 and enhance all aspects of the food experience to save customers time and money." It continued,
12 "[i]n 2022, Albertsons Cos. plans to expand the program nationwide and include a continuous
13 expanding list of items for members to add for auto-replenishment."

14 8. In a March 2022 call with Replenium and the Albertsons team, Albertsons' Senior
15 Vice President of Digital Shopping Experiences, Jill Pavlovich, projected that the Replenium
16 Platform represented a "massive opportunity," and further quantified that opportunity as a "\$[4]
17 billion-dollar opportunity by fiscal year 2024."¹ Ms. Pavlovich challenged the Albertsons team to
18 prioritize subscriber acquisition for the Replenium Platform, stating: "Vivek [Sankaran, Chief
19 Executive Officer] himself has challenged all of us, this group here, to get to 100,000 subscribers
20 by the end of the year, a goal I know we can blow out of the water."

21 9. Based on Albertsons' representations and inducements, under the protection of the
22 MNDA and MSA, Replenium shared trade secret and confidential information for over three
23 years, with hundreds of Albertsons' personnel, including its technical leads, solutions architects,
24

25 ¹ Ms. Pavlovich's statement referred to a "\$40 billion-dollar opportunity", but based on her stated calculation
26 methodology, it appears that she intended to reference a still-significant, "\$4 billion-dollar opportunity." This
complaint accordingly refers to the corrected \$4 billion dollar calculation.

1 and senior managers. During these meetings, Albertsons requested and received specific, detailed
2 information about recommended process flows and business logic for key features of the
3 Replenium Platform.

4 10. Albertsons expanded its knowledge of the Replenium Platform by inducing
5 Replenium to engage in a series of limited assortment pilots and small segment launches based on
6 the promise of a nationwide expansion. Unbeknownst to Replenium, during Replenium's three
7 years of confidential information sharing, Albertsons was misappropriating Replenium's trade
8 secret and confidential information by building its own competing, full grocery basket auto-
9 replenishment solution to replace the Replenium Platform.

10 11. Albertsons initially launched Schedule & Save with Replenium, with limited
11 functionality, in Northern California in August 2022. For the next year, Albertsons requested and
12 received trade secret and confidential information from Replenium for the purpose of adding
13 enhancements to its initial small segment launch.

14 12. Even as Albertsons was building or planning to build its own replacement solution,
15 it continued to induce Replenium to share more trade secret and confidential information and
16 invest even further in support of Albertsons' incremental expansion of Schedule & Save. For
17 example, in January 2023, in the face of Albertsons' continued delays, Pavlovich continued to
18 induce Replenium to share trade secret and confidential information and invest in enhancements
19 based on Albertsons' promise of expanding the Replenium Platform nationwide. As an added
20 inducement, Pavlovich specifically pointed Replenium to Albertsons' recently-announced planned
21 merger with The Kroger Company ("Kroger"), stating that Replenium stood to generate fees
22 beyond Albertsons' replenishment volume because Replenium would "get Kroger out of this" too.

23 13. In August 2023, Albertsons squeezed Replenium to support a final, critical
24 enhancement to Schedule & Save based on Albertsons' promised nationwide expansion of the
25 Replenium Platform in the fall of 2023. Through the Replenium Platform, and based on
26 Replenium's ongoing confidential information sharing, Albertsons added Replenium's Cart &

1 Checkout functionality to Schedule & Save in 240 stores in Northern California. At the same
2 time, Albertsons disguised its true plans to launch its own platform by providing Replenium with
3 misleading information.

4 14. The August 2023 launch was a success; however, Albertsons' nationwide
5 expansion of Schedule & Save on the Replenium Platform never happened. On October 3, 2023,
6 after three years of learning the technology, know-how, and logic behind the Replenium Platform,
7 Albertsons abruptly terminated the MSA, astonishingly citing the Kroger merger as one of the
8 reasons for terminating the MSA. Albertsons almost immediately launched its own, nearly
9 identical, full-basket auto-replenishment solution that it had built with unfettered access to and use
10 of Replenium's trade secret and confidential information.

11 15. As a result, Replenium, after investing over ten million dollars over three years of
12 implementation and operation of its Replenium Platform with Albertsons, lost nearly the entirety
13 of that investment on the eve of the planned, full-scale expansion, without realizing any of its
14 service fee revenue under the MSA. Albertsons' calculated maneuver cost Replenium millions of
15 dollars that it invested in implementation and operation, tens of millions of dollars in anticipated
16 revenue under the MSA, and a massive loss in Replenium's enterprise value due to its investment
17 in a flagship customer that acted in bad faith by repeatedly squeezing and ultimately discarding
18 Replenium in violation of the parties' contracts.

19 16. Albertsons rolled out its competing platform in October 2023 and rapidly expanded
20 Schedule & Save across the country to the vast majority of its large banners, such as Safeway,
21 Vons, Albertsons, and Jewel-Osco, without paying for Replenium's technology and know-how
22 that enabled Albertsons to launch an "industry-revolutionizing" auto-replenishment platform.

23 17. Replenium seeks to hold Albertsons accountable for acting in bad faith, breaching
24 its agreements, making false promises, and misappropriating its trade secrets and confidential
25 information, without paying Replenium a license for its ongoing use and profits from the
26

1 technology and know-how underlying Replenium's first-of-its-kind full-basket, auto-
2 replenishment platform for the grocery market.

3 **PARTIES**

4 18. Replenium Inc. is a Washington corporation with its principal place of business in
5 Seattle, Washington.

6 19. Albertsons Companies, Inc. is a Delaware corporation with its principal place of
7 business in Boise, Idaho.

8 **JURISDICTION AND VENUE**

9 20. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332 and
10 18 U.S.C. § 1836(c).

11 21. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) because
12 substantial acts and omissions giving rise to the claims alleged herein occurred in this Judicial
13 District.

14 **FACTUAL ALLEGATIONS**

15 **I. Replenium Develops Trade Secret Technology for Full-Basket Auto-**
16 **Replenishment**

17 22. Tom Furphy founded Replenium in 2015 to develop and launch a first-to-market
18 auto-replenishment service for grocery retailers that would provide grocery customers and brands
19 with an automated and efficient tool for replenishing their routine grocery purchases. Furphy
20 previously served as Vice President of consumables and AmazonFresh at Amazon from 2005 to
21 2009, where he was responsible for the underlying strategy, development and execution of
22 Amazon's grocery and health and beauty business. Replenium's Chief Technology Officer, Umair
23 Bashir, is also a former Amazon executive who served as a Manager of Software Development for
24 Retail Customer Experience, where he helped build Subscribe & Save, and later as a Senior
25 Manager, Vendor and Product Management.

1 23. Replenium was the first company to successfully create a full-basket auto-
2 replenishment system for grocery retailers that automatically schedules customers' product
3 replenishments orders and organizes deliveries and pick-ups based on replenishment schedules
4 and customer preferences. This goes far beyond traditional product subscription platforms to
5 accommodate the high frequency, large product assortment, large shopping basket size and
6 complexity of grocery shopping. To date, no other grocery retailer, outside of Albertsons, has
7 launched a comparable auto-replenishment solution.

8 24. Replenium's technology and business logic enable customers to automate large
9 portions of their everyday purchases by making it simple for them to identify and add items to
10 their auto-replenishment list, then automatically create orders, tender payment, and schedule
11 orders for delivery or pick-up when products are due to be replenished. This is all done with little
12 to no human intervention. The confidential and proprietary technology and business logic that
13 supports this auto-replenishment platform constitutes Replenium's "Trade Secrets." Replenium's
14 level of automation has never been available on large baskets of goods, like those in a regular trip
15 to the grocery store. Unlocking this functionality helps ensure that customers do not run out of the
16 products they need while providing a recurring revenue stream to retailers.

17 25. Replenium created its Trade Secrets through years of research, development, and
18 testing across many customer use cases such as handling large orders, making order changes,
19 handling multiple temperature zones, accommodating products with shelf life and replenishment
20 cycle variation, and changes in delivery timing or method. Replenium's solution addresses a retail
21 market that is several times larger than that captured by traditional product subscription software,
22 such as Amazon's Subscribe & Save.

23 26. Replenium offers retailers the Replenium Platform through SaaS contracts that
24 provide retailers with access to the Replenium Platform and ongoing operational and technology
25 support, all under strict contractual protections for Replenium's Trade Secrets and other
26

1 confidential information. Replenium does not operate as a software development firm and does
2 not perform development services for clients.

3 27. Retailers benefit from implementing the Replenium Platform by enabling them to
4 drive larger and more frequent digital shopping cart orders and better forecast labor and inventory
5 needs. Brands benefit from predictable revenue streams from replenishment orders, valuable data
6 related to purchasing patterns, and an increase in shoppers' brand loyalty. And, finally, customers
7 receive personalized automated digital shopping carts based on their preferences and historical
8 shopping preferences while simultaneously saving time with automated fulfillment that fits
9 seamlessly into their lives.

10 28. Many other retailers have attempted to create a system like the breakthrough
11 Replenium Platform, but outside of Albertsons none have succeeded. Companies like Amazon
12 and Chewy created product subscription systems that operate on a single item and small order
13 level only. The Replenium Platform stands apart because it can automatically generate entire
14 shopping carts—not just single items preselected by customers—as well as delivery schedules
15 based on customer preferences without any input required by the customer after the initial order.

16 29. Other grocery retailers, such as Walmart, have publicly announced their intentions
17 to launch a full-basket auto-replenishment solution but have yet to successfully do so. And
18 Amazon, which only recently launched its Amazon Fresh replenishment solution in February
19 2024, does not offer customers the ability to truly configure auto-replenishment for their grocery
20 needs, still requiring the customer to make decisions and manually, not automatically, execute
21 orders.

22 **II. Replenium Enters into MSA with Albertsons to Create a Full-Basket**
23 **Auto-Replenishment System for Albertsons Stores**

24 30. Recognizing the immense value that could be derived from implementing the
25 Replenium Platform, Albertsons sought to contract with Replenium to gain access to the
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1 Replenium Platform and secure Replenium's services and expertise to offer a full-basket auto-
 2 replenishment system to Albertsons' customers.

3 31. On June 17, 2020, Replenium and Albertsons entered into the MNDA to enable
 4 Replenium and Albertsons to "share information for the purpose of evaluating the suitability of
 5 entering into a business relationship or in furtherance of an existing business relationship,"² and to
 6 "treat such information as confidential." The terms of the MNDA applied to the parties' "parent,
 7 affiliates and subsidiaries, and its and their officers, directors, employees, contractors, consultants,
 8 agents and representatives." MNDA § 1.

9 32. The MNDA defined "Confidential Information" broadly to include:

10 any and all information of the Disclosing Party and each of its
 11 parent, affiliates and subsidiaries that is not available to the public,
 12 including, but not limited to: trade secrets; techniques; methods;
 13 methodologies; product and manufacturing specifications; purchase
 14 or sales volume, manufacturing, marketing, development, customer
 15 (personal and aggregate data, including household and alternative
 16 IDs and tracking cookies and tags), employee, supplier, financial or
 17 operations information; technical, scientific, laboratory,
 18 experimental, research or statistical data; tooling; machinery;
 19 diagrams; drawings; forecasting; business and new product and
 20 service plans; reports; procedures; designs; formulae; recipes;
 21 improvements; records; processes; any and all current and future
 22 product information; facilities tours; know-how; data or any third
 party information and contracts that Disclosing Party is obligated to
 treat as confidential that is disclosed or made accessible to the
 Receiving Party directly or indirectly, in any form, whether written,
 oral, photographic, electronic, magnetic, computer, by inspection of
 tangible objects, or otherwise (including materials, records, reports,
 documents, prototypes, samples, plant and equipment) and
 information that has been subject to confidential treatment under a
 terminated or expired agreement between the parties.

23 *Id.* § 2.

24
 25
 26 ² This was defined as the MNDA's "Purpose."

33. The MNDA included thorough non-use and non-disclosure protections that prohibited the parties from, among other things, using the Confidential Information³ for any purpose outside of the defined Purpose and from disclosing the Confidential Information to any of its representatives except those “who need to know the Confidential Information for the Purpose and who are bound to keep such Confidential Information confidential” *Id.* § 4. Moreover, the MNDA restricted either party from “export[ing], reverse engineer[ing], disassembl[ing], or decompil[ing]” any prototypes, software or other tangible objects that embody the other party’s Confidential Information. *Id.*

34. The parties also agreed to “take commercially reasonable measures to protect the secrecy of, and to prevent unauthorized disclosure and/or use of, the Confidential Information of the Disclosing Party.” Those measures were required to be “at least those measures that [the Receiving Party] takes to protect its own confidential information of similar import.” *Id.* § 6.

35. The MNDA enabled an open dialogue between Replenium and Albertsons regarding their potential business relationship, for the duration of that business relationship, and after the termination of that business relationship.⁴ Replenium relied on the MNDA to share its valuable and novel Trade Secrets and other Confidential Information with Albertsons because of the strong and clear protections of the MNDA.

36. On or about October 7, 2020, Replenium and Albertsons entered into the MSA. The parties used Albertsons’ template contract to draft the MSA, at Albertsons’ insistence.

37. The MSA, Section 9.1, affirmed that all confidential and proprietary information disclosed by one party to the MSA to the other party “concerning or pertaining to the business of the disclosing party shall be subject to the terms of the [MNDA].” Further, Section 11.3(c) of the

³ “Confidential Information” as used herein refers to the term as defined in the MNDA.

⁴ The MNDA’s term continued until terminated by the parties in writing. § 11. In addition, the MNDA provided that “each party’s confidentiality obligations shall survive such termination until such time as the Confidential Information of the other party . . . becomes publicly known and made available through no breach of this [MNDA]” *Id.*

1 MSA provides that “Albertsons will use its reasonable efforts to protect Company’s Intellectual
2 Property rights in the Services and will report promptly to Company any infringement or
3 misappropriation of such rights of which Albertsons becomes aware.” Section 11.6 of the MSA
4 also provides that “Albertsons will not . . . (b) copy, modify or create any derivative works based
5 on the Services or (c) disassemble, decompile, or reverse engineer the Services or permit any third
6 party to do so.”

7 38. Pursuant to the MSA, Replenium agreed to provide Albertsons with “automated
8 replenishment SaaS Services,” MSA § 1, a full-basket auto-replenishment system based on
9 Replenium’s Trade Secrets and other Confidential Information and integrated into Albertsons’
10 digital storefronts as “Schedule & Save.”

11 39. In exchange, Albertsons would pay Replenium “Fees specified in [the] SOW.” *Id.* §
12 6.1. “Fees” includes, among other things, “Service Fees” as set forth in Appendix B. SOW §
13 1.1(e); *see id.* § 1.01(f).

14 40. Pursuant to Appendix A of the SOW, Albertsons agreed to “pay [Replenium] a
15 percentage Service Fee based upon Net Revenue generated through Replenishment Orders” in
16 accordance with a tiered payment structure. Under that schedule, Albertsons would pay
17 Replenium a determined percentage of its auto-replenishment net revenue, with differing rates
18 depending on whether the revenue was generated through Albertsons’ own brands or branded
19 products.

20 41. Crucially, Albertsons would only pay Replenium the Service Fees anticipated by
21 the MSA after Albertsons’ launch and expansion of the Replenium Platform.

22 42. The MSA was a service agreement and *not* a software development contract. It
23 expressly provided that “[n]otwithstanding any other provision to the contrary in this Agreement,
24 the parties acknowledge that [Replenium] is providing automated replenishment SaaS Services
25 and that [Replenium] will not be producing any Deliverables except as expressly set forth in an
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1 SOW. The SOW contains a table with an entry for deliverables and next to it, it states “N/A.”
2 Similarly, the table in the SOW states “N/A” in lieu of a schedule for deliverables.

3 43. The MSA defined a “Commercial Launch” of the Replenium Platform as “the date
4 mutually agreed to by the parties on which Customers are able to begin placing Replenishment
5 Orders in one or more geographic or segmented markets” but expressly excludes any “friendly
6 user trial of the Services.” SOW § 1.1(c).

7 44. Pursuant to the MSA, the Commercial Launch was initially set for December 31,
8 2020. *Id.* at 1. Albertsons agreed to cooperate in good faith with Replenium to carry out all its
9 obligations in the MSA. *Id.* § 1.3. Albertsons further agreed to “use commercially reasonable
10 efforts to market and promote the ability of Customers to place and manage Replenishment
11 Orders” through the Replenium Platform. *Id.* § 1.6.

12 45. The parties agreed to the terms of the MSA, and its payment structure, with the
13 expectation that Albertsons would rapidly launch and expand its use of the Replenium Platform
14 nationwide with a full set of service features. The parties never contemplated Replenium
15 providing SaaS services for years without generating Service Fees from a nationwide expansion of
16 the Replenium Platform. For the duration of the integration of the Replenium Platform,
17 Replenium would be operating at a significant loss, which would only make sense if it received
18 the Service Fees resulting from the launch and nationwide expansion of the Replenium Platform.

19 46. The financial potential for Replenium was massive in light of the number of
20 Albertsons stores and its tens of billions of dollars of revenue, including billions of dollars of
21 ecommerce revenue. Without the Service Fees, Replenium would not have entered into the MSA.

22 47. Replenium’s expectation that the volume of auto-replenishment orders would be
23 significant, as well as the resulting fees, was based not only on Albertsons’ size and Albertsons’
24 projections, but also based on its own market research and past experience at Amazon.

25 48. Albertsons was also aware that Replenium would be operating at a significant loss
26 until Albertsons widely expanded the Replenium Platform to its customers. Replenium

1 periodically shared its financial information with Albertsons, demonstrating the monthly
2 investment it was making to support Albertsons. With this information, Albertsons established the
3 expectation that it would rapidly execute a national expansion of the Replenium Platform from the
4 beginning of the parties' relationship, and consistently reaffirmed this expectation throughout the
5 parties' relationship.

6 49. The SOW specifically provided that the "parties acknowledge that upon
7 Commercial Launch it is in their mutual interest to maximize the number of Replenishment Orders
8 placed by Customers." § 1.6.

9 **III. Replenium Shares Trade Secrets and other Confidential Information with a**
10 **Significant Number of Albertsons' Representatives Under the Protections of**
11 **the MNDA**

12 50. In July 2020, Replenium and Albertsons began collaborating and sharing Trade
13 Secrets and other Confidential Information about the Replenium Platform, under the protections of
14 the MNDA.

15 51. Replenium and the Albertsons team tasked with coordinating and working with
16 Replenium corresponded regularly via email, Microsoft Teams, Slack, and video calls discussing
17 the Replenium Platform and Replenium's underlying technology that supported the Replenium
18 Platform. These frequent discussions included topics such as the underlying system architecture,
19 integration details and processes, as well as strategic approaches to implementation and business
20 logic.

21 52. By October 2020, the parties were holding weekly Tuesday meetings (sometimes
22 twice weekly meetings) to discuss progress and implementation of the Replenium Platform.
23 Replenium and Albertsons maintained this level and frequency of communication over nearly the
24 entirety of their three years working together on the Replenium Platform. These communications
25 regularly included discussions of Replenium's Trade Secrets and other Confidential Information.

26 53. On the Replenium side, Chief Technology Officer and engineer Umair Bashir led
the discussions, along with a team of Replenium's top technology and implementation team. For

1 Albertsons, frequent attendees of the calls included Sowjanya Naidu, (Technical Architect and
2 Technical Lead); Krishna Movva (Engineering Manager); Bipin Chaudhari (Technical Program
3 Manager); Lavanya Kambampati (Technical Lead); Trimurthulu Bommireddy (Solutions
4 Architect); Ramanjaneya Reddy Karnati (User Interface Developer); Asha Choudhary (Product
5 Manager); Krishna Wudaru (Engineering Manager); Vijay Maddu (Technical Lead); Kevin
6 DeKorte (User Interface Lead); and Ganga Ramankulam (Technical Program Manager), to name a
7 small selection of the over two-hundred Albertsons employees and contractors with whom
8 Replenium shared Trade Secrets and other Confidential Information.

9 54. In addition to the regular calls between the two teams, many of which were
10 recorded by Albertsons, Replenium also shared in writing Trade Secrets and other Confidential
11 Information about the logic, technology and business strategies underlying the Replenium
12 Platform. This information was communicated through, among other means, messaging services,
13 such as Slack, email, as well as through PowerPoint presentations created by Replenium and
14 shared with Albertsons under the MNDA and MSA.

15 55. For example, on July 9, 2020, Replenium shared with Albertsons a confidential
16 presentation that included a “Technology Overview” of the “Architecture & Integration” of the
17 Replenium Platform. The presentation included detailed information concerning Replenium’s
18 Microsoft Azure architecture, replenishment user and data flow explaining how customers and the
19 Replenium Platform would respond and react to each other’s inputs, and auto-replenishment
20 recurring order flow. The presentation also provided detailed user experience design, including
21 core customer notification and auto-replenishment item and order management features.
22 Replenium emailed this presentation to Richa Gupta (Senior Director, Head of Loyalty Platform
23 Innovations and Partnerships) and Jonathan Nouri (Senior Vice President of Loyalty) and
24 presented it to Albertsons’ internal team on June 23, 2020.

25 56. In a July 24, 2020 email, Replenium explained to Richa Gupta of Albertsons the
26 auto-replenishment functionality and how it differed from subscription systems developed by

1 Amazon, Chewy, Ordergroove, and Zuora. Replenium further shared a confidential presentation
2 detailing the same type of information.

3 57. On September 9, 2020, Replenium shared with a team of Albertsons employees a
4 confidential presentation entitled “Rp Albertson Combined Customer Journey,” which laid out the
5 step-by-step process through which a customer would engage with and navigate through the
6 Replenium Platform, including how customers would subscribe to certain products, how the
7 Replenium Platform would create what it referred to as auto-replenishment buckets and mixed
8 bags, how customers would manage their product replenishments, and how the Replenium
9 Platform would ensure that auto-replenishment orders placed through the Replenium Platform
10 would be fulfilled. Replenium sent this presentation by email to Richa Gupta; Ganga
11 Ramankulam (Technical Program Manager); Roopa Acharya (Vice President of Software
12 Engineering); Nitin Saksena (Senior Director of Omnichannel Architecture); and Igor Tsigelnik
13 (Solutions Architect for eCommerce).

14 58. On September 15, 2020, Replenium shared with over twenty Albertsons employees
15 a confidential presentation entitled “Albertsons User Stories” which detailed the Replenium
16 Platform’s customer journey, including detailed process flow charts explaining how customers and
17 the Replenium Platform would respond to each other’s inputs to enable effective auto-
18 replenishment and cart management. The presentation also painstakingly detailed the most
19 effective and efficient methods of utilizing the Replenium Platform and how best to design
20 customers’ experience to maximize user uptake and streamline ease of use in light of numerous
21 interrelated systems. Replenium sent this presentation via email to Roopa Acharya (Vice
22 President of Software Engineering); Ganga Ramankulam (Technical Program Manager); Richa
23 Gupta; Nitin Saksena (Senior Director of Omnichannel Architecture); Igor Tsigelnik (Solutions
24 Architect for eCommerce); Tharun Mittapalli (Contractor); Zachery Baker (Principal User
25 Experience Designer); Victor Teleron; Ganesh Reddiar (Mobile App Solutions Architect); Neetu
26 Sultan (Senior Engineer Manager); Alok Gupta (Director of Enterprise Architecture); Cameron

Craig (Vice President of User Experience); Alberto Attia (Principal User Experience Architect); Alicia Sanguinetti (Director of User Experience); Krishna Wudaru (Engineering Manager); Vikas Pathuri (Director of eCommerce Engineering); Kristin Simao (Innovation Design Strategist) May Ou; Bobby Johnson; Lava Amba; and Trimurthulu Bommireddy (Solutions Architect).

59. In another confidential presentation, titled “Replenium System Architecture – High Level Overview – September 2020”, which Replenium shared with a large Albertsons team on September 17, 2020, Replenium provided a detailed overview of the product subscription processes enabling customers to subscribe to eligible products in the Replenium Platform. It also provided a detailed overview and process flowchart for the Cart & Checkout feature, which provides a way for customers to easily and quickly add items to auto-replenishment that are in their ecommerce cart while at ecommerce checkout. Cart & Checkout is a proven method to drive significant customer adoption of auto-replenishment. Accordingly, Replenium strongly encouraged at the outset of the parties’ contractual relationship that Cart & Checkout be developed and implemented as part of the Replenium Platform.

60. Replenium sent the email attaching this System Architecture presentation to Roopa Acharya (Vice President of Software Engineering); Ganga Ramankulam (Technical Program Manager); Nitin Saxena (Senior Director of Omnichannel Architecture); Igor Tsigelnik (Solutions Architect for eCommerce); Tharan Mittapalli; Zachery Baker (Principal User Experience Designer); Victor Teleron; Ganesh Reddiar (Mobile App Solutions Architect); Neetu Sultan (Senior Engineer Manager); and Alok Gupta (Director of Enterprise Architecture).

61. On October 21, 2020, Replenium provided Albertsons documentation concerning Replenium’s Application Programming Interface (“API”) and Software Development Kit (“SDK”), both unique to the Replenium Platform based on Replenium’s technology and not otherwise made publicly available by Replenium. Replenium shared these documents with multiple Albertsons employees, including Subha Burela (Business Analyst); Vijay Maddu

1 (Technical Lead); Sowjanya Naidu (Technical Architect and Technical Lead); Kevin DeKorte
2 (User Interface Lead); and Shekhar Kale.

3 62. Replenum also shared with Albertsons a document detailing its API endpoints,
4 providing explanations and examples to Albertsons how to effectively utilize the Replenum
5 Platform's API. Over the course of the parties' relationship, Replenum repeatedly updated these
6 documents and provided up-to-date information concerning its API and SDK to Albertsons.

7 63. In addition, Albertsons required all of the API traffic to go directly through
8 Albertsons' servers. With the service calls being exchanged through its own gateway rather than
9 Replenum's, Albertsons was able to gain more information and insight into the nature of the calls
10 and the logic behind the technology.

11 64. Replenum shared and gave Albertsons access to these Trade Secrets and other
12 Confidential Information under the protections of the MNDA and MSA and continued to regularly
13 share this type of information throughout the three years of the parties' relationship.

14 65. The documents identified herein represent merely a sample of the materials shared
15 by Replenum with Albertsons throughout their three-year contract period. Replenum would not
16 and has not shared this type of information with any outside party absent a non-disclosure
17 agreement, such as the MNDA. In fact, Replenum has never shared this depth of information
18 with prospective customers, even when an NDA is in place.

19 66. Albertsons consistently sought information about the Replenum Platform, under
20 the MNDA and MSA, far beyond what was necessary for Albertsons to integrate the Replenum
21 Platform into Schedule & Save. Albertsons sought information that went to the core of the
22 operation of the Replenum Platform—highly confidential and vigorously protected Trade Secrets
23 and other Confidential Information. Based on the protections in the MNDA and MSA and given
24 Replenum's desire to ensure the success of the Replenum Platform, Replenum shared the
25 requested information with Albertsons.
26

IV. The Rollout of the Replenium Platform is Repeatedly Delayed while Albertsons Continues to Acquire Replenium's Trade Secrets and other Confidential Information under the Guise of Moving Forward with a Nationwide Expansion

67. After entering the MSA, Albertsons did not meet the December 31, 2020 Commercial Launch date and requested an extension of the Commercial Launch date to March 31, 2021. Despite the significant costs of Albertsons' delay, Replenium agreed as a result of Albertsons' enormous leverage and representations and inducements to Replenium to continue to provide service.

68. On or about January 26, 2021, Replenium and Albertsons executed Amendment Number One to Statement of Work ("SOW Amendment 1"), wherein the parties agreed to adjust the Commercial Launch date to March 15, 2021. SOW Amendment 1 § 1.

69. Replenium continued to diligently work with Albertsons so that it could achieve the March 15, 2021 Commercial Launch date; however, Albertsons also failed to meet the March 15, 2021 Commercial Launch date.

70. After the second failed Commercial Launch date, Albertsons induced Replenium to continue to work toward a launch by making false promises that it was proceeding toward a national expansion of the Replenium Platform, and by agreeing to cover a portion of Replenium's increasing monthly losses.

71. Albertsons did not follow through on its promise of a nationwide expansion. Rather, Albertsons required Replenium to conduct limited pilots that were never anticipated by the MSA or the parties' discussions about launching and expanding the Replenium Platform.

72. For example, in or around September 2021, Albertsons conducted a pilot consisting of approximately 120 stores in Northern California and only included a small fraction of products eligible for Schedule & Save—approximately 250 stock keeping units ("SKU"), later increased to 1,200 SKUs—through the Replenium Platform. This was well below Replenium's 50,000 SKU recommendation, but the pilot still demonstrated the functionality and potential of the program.

1 73. Consistent with the expectations Albertsons set for Replenium, in a December 2021
2 press release, Albertsons announced a limited trial of Schedule & Save “developed in partnership
3 with auto-replenishment and predictive shopping platform Replenium,” with “plans to expand the
4 program nationwide and include a continuous expanding list of items for members to add for auto-
5 replenishment.” Albertsons proclaimed that Schedule & Save, along with new meal planning
6 technology, would “revolutionize its digital offerings and enhance all aspects of the food
7 experience to save customers time and money.”

8 74. After the initial pilot, in 2022, Albertsons continued to promise a nationwide
9 expansion of the Replenium Platform and expressed incredible optimism for the industry
10 “revolutionizing” opportunity, with Replenium, to be the first grocery chain to launch a full-basket
11 auto-replenishment platform. Albertsons’ Senior Director of Omni Experiences, Alyse Wuson,
12 expressed Albertsons’ goal of “exponentially increas[ing] eligible SKUs” for the Replenium
13 Platform.

14 75. Albertsons also continued to reaffirm to Replenium that Albertsons intended to
15 expand the Replenium Platform broadly across the country. For example, in a February 2022
16 presentation, Albertsons stated that it intended to expand the Replenium Platform in
17 approximately 2,147 stores and have an initial 100,000 customers enrolled via its website and
18 phone application by the end of fiscal year 2022.

19 76. Albertsons’ Senior Vice President of Digital Shopping Experiences, Jill Pavlovich,
20 lavishly praised Replenium and the opportunity the Replenium Platform offered Albertsons. She
21 communicated Albertsons’ view that Replenium could drive billions of dollars in sales, and that
22 the Replenium Platform had the full and vocal support of Albertsons’ C-suite members. In a
23 March 14, 2022 video call with Albertsons and Replenium representatives, Pavlovich stated:

24 Apologies in advance because I can only stay just long enough to
25 share how huge this program is and how important all the work you
26 have done and will continue to do is to the goals of our company,
 both on our customer experience side and financially. So thank you,

1 thank you, thank you, thank you, thank you to all of you for the
 2 work you've done thus far and will continue to do to drive this
 3 program forward. I mean, I think we're talking about *industry-*
 4 *revolutionizing stuff* right here. Yes, there is Schedule & Save or
 5 Subscribe & Save out there in the market, but not with a grocer. Not
 6 on the things you buy most often. More often than anything,
 7 actually. . . . We do know this to be a massive opportunity for us.
 8 First, assuming our [ecommerce] business hits \$10 billion dollars,
 9 and [the Replenium Platform] grows to be about 40 percent of that,
 10 we're staring down the pipe at a *\$4 billion [sic] dollar opportunity*
by fiscal year 2024. We also know that 60 percent of our
 customers' baskets, or their quote-unquote usuals, means they buy
 the same thing week over week, and the ability to subscribe to their
 usuals and save money is a huge benefit to our customers, especially
 to our convenience shoppers. When customers can subscribe to
 their usuals, they inherently become more loyal, driving
 approximately one additional trip per quarter and a 15 percent spend
 increase.

11 And just to put, like, a point on this opportunity, *no other grocer is*
 12 *doing it yet*. So the customer benefits, the financial benefits, and the
 13 ability to be first to market make this a top priority for the company.
 14 In fact, as Alyse will share, *Vivek [Sankaran, Chief Executive*
 15 *Officer,] himself has challenged all of us, this group here, to get to*
 16 *100,000 subscribers by the end of the year, a goal I know we can*
 17 *blow out of the water*. So with that, I just want to say thank you
 18 again—thank you thank you, thank you—reiterate how excited I am
 19 personally about this program, but more importantly, how excited
 the entire leadership is about the capability, as well as reinforce that
 we have the support of the entire organization to make this a
 success. I'm sure Alyse has on her agenda to talk about the meeting
 we just came out of with [Jennifer Saenz, Executive Vice President,
 Chief Merchandising Officer,] where she was like “yes yes yes yes
 yes” to everything Alyse was asking for from a topline view of the
 program.

20 77. In this way, amongst many other direct communications to Replenium, Albertsons
 21 induced Replenium's continued services and sharing of Trade Secrets and other Confidential
 22 Information by repeatedly assuring Replenium that it would reap significant Service Fees resulting
 23 from a broad, full-feature, nationwide expansion that could yield tens of millions of dollars in
 24 revenue for Replenium.

1 78. Albertsons represented to Replenium that Albertsons intended to launch Schedule
2 & Save by mid-2022 and expand it nationally throughout the balance of the year. In a June 30,
3 2022, email, Pavlovich stated “[h]ere’s to [July 22] sticking like glue. We cannot wait to get this
4 running full speed ahead.”

5 79. Given Albertsons’ projections and praise for the Replenium Platform, Replenium
6 continued to push Albertsons to broadly expand the Replenium Platform as the parties had agreed.
7 Nevertheless, in August 2022, Albertsons demanded that Replenium commence another limited
8 pilot—again in Northern California—consisting of 254 stores. Albertsons represented to
9 Replenium that this limited pilot was to be followed by a national expansion, staggered through
10 divisions, throughout the remainder of 2022.

11 80. Again, the Replenium Platform proved to be a success; however, Albertsons still
12 did not follow through with the planned national expansion. Albertsons provided Replenium with
13 a series of moving-target reasons to explain its delays, but every time Replenium worked with
14 Albertsons to help it resolve the purported hurdles to a national expansion, Albertsons responded
15 with a new explanation for its delays.

16 81. During these delays, Albertsons continued to request and receive Trade Secrets and
17 other Confidential Information from Replenium under the protections of the MNDA and MSA.
18 For example, on October 16, 2022, Replenium shared with Albertsons’ team its recommended
19 customer journey enhancements, to which Albertsons responded by saying that there were “some
20 really nice ideas in your document that we’d like to explore,” and further requesting additional
21 information: “knowing that you have industry expertise and data, if you were to prioritize all the
22 suggested enhancements in the document, what would the order be?”

23 82. Albertsons’ delays also took a significant financial toll on Replenium, who was still
24 supporting Albertsons as a good faith business partner, relying on Albertsons’ representations and
25 its belief that Albertsons was acting in good faith.
26

1 83. Replenum shared financial information with Albertsons demonstrating the
2 economic impact of Albertsons' unwarranted delays on Replenum. Albertsons agreed to make
3 interim payments to Replenum to cover a small portion of Replenum's losses, but it continued to
4 delay the promised nationwide expansion while exercising its leverage to induce Replenum's
5 continued performance. Even with Albertsons' interim payments, Replenum was incurring
6 millions of dollars of losses annually to support implementation of the Replenum Platform. And,
7 as Albertsons was aware, those losses would be immensely challenging for Replenum to sustain
8 for a period of years.

9 84. Again, in December 2022, Albertsons shared in writing with Replenum what it
10 referred to as its "Banner Expansion Plan" to expand the Replenum Platform nationwide. The
11 Banner Expansion Plan showed that the Replenum Platform would be live in 97% of the Northern
12 California stores, 100% of the Southern California stores, 100% of the Mid-Atlantic stores, 95%
13 of Seattle stores, and 100% of the Southwest stores by the end of September 2023, among others,
14 comprising 94% of Albertsons' stores, or 1,968 stores across the country.

15 85. On January 9, 2023, Replenum met with Pavlovich and Wuson to reiterate its
16 concerns about Albertsons' continued delays of the program. Pavlovich responded that the delays
17 were caused by Albertsons' prior business and product teams and that Pavlovich and the new team
18 could not be held accountable for the prior team's performance. During this meeting, Pavlovich
19 informed Replenum that she had not even read the MSA because it was executed before she
20 joined Albertsons.

21 86. At a January 12, 2023 meeting with Albertsons, Replenum again expressed
22 concerns regarding Albertsons' continuous delays of a national expansion. Replenum explained
23 that Albertsons' delays were taking a significant toll on Replenum given the fact that Albertsons
24 was not paying Service Fees to Replenum to ameliorate its costs, as planned. In response,
25 Pavlovich pointed to the recently announced merger with Kroger and stated that in addition to
26 Albertsons' volume, Replenum would "get Kroger out of this" if Replenum continued its work.

1 87. At that time, Albertsons was in the process of negotiating a merger with Kroger.
2 As of April 2, 2024, Kroger operated 2,722 grocery retail stores across the country under a variety
3 of banner names, either directly or through its subsidiaries. Albertsons' invocation of Kroger and
4 referencing that Replenium would "get Kroger out of this" was intended to induce Replenium to
5 continue investing time and effort in the Replenium Platform with Albertsons because the
6 potential merger would significantly increase the reach of the Replenium Platform, thereby
7 significantly increasing Replenium's Service Fees.

8 88. Albertsons finally committed to an expansion in all Safeway stores by February 15,
9 2023. Replenium spent countless hours and exhaustive resources leading up to this February 2023
10 expansion. The teams from both parties were prepared for the rollout, but then just two days prior
11 to the target date, Albertsons' corporate team abruptly canceled the expansion again.

12 89. Replenium expressed its shock and disappointment to Albertsons, particularly
13 given that all of its functionality was performing to specification. In response, Albertsons' Omar
14 Gajjal, Executive Vice President, Chief Digital & Health Officer at the time, offered to identify a
15 subset of stores or divisions where Albertsons could expand the Replenium Platform. Albertsons
16 ultimately never identified additional stores or divisions.

17 90. Throughout 2023, Albertsons and Replenium continued to work on an economic
18 resolution to Albertsons' seemingly inexplicable delays, but Albertsons repeatedly used its market
19 leverage and promises of a national expansion to insist that Replenium continue its support
20 without additional financial consideration.

21 91. In an email from Albertsons in May 2023, after asking Replenium to increase its
22 monthly investment in order to provide additional server capacity and labor, Albertsons reiterated
23 that position: "Like you, we also remain big believers in this program's potential. *We are just an*
24 *estimated 1 month away from launching the Cart & Checkout experience for customers*, which
25 should be a big unlock for the program. If initial results are favorable, it will enable us to expand
26

1 this program across the enterprise. *We look forward to crossing these milestones over the next few*
 2 *months!*" (emphasis added).

3 92. Through Albertsons' limited pilots and staged enhancement launches, it repeatedly
 4 squeezed Replenium for Trade Secrets and other Confidential Information and significant
 5 investment, while Albertsons reaped the benefits of the Replenium Platform through further
 6 education about Replenium's technology and validation of the business case for Schedule & Save.
 7 At the same time, Albertsons denied Replenium Service Fees, or ultimately any compensation for
 8 its Trade Secrets and other Confidential Information while forcing it into financial challenges that
 9 were never contemplated by the parties' relationship.

10 **V. With Continuing Access to and Use of Replenium's Trade Secrets and other**
 11 **Confidential Information, Albertsons Internally Develops a Competing System**
to Replace the Replenium Platform

12 93. Unbeknownst to Replenium, while Replenium was working with Albertsons to
 13 implement the Replenium Platform, Albertsons covertly began to develop a near-identical system
 14 (the "Albertsons Platform") meant to supplant the Replenium Platform for Schedule & Save.

15 94. Albertsons did not inform Replenium that it had begun to develop the Albertsons
 16 Platform in parallel with its partnership with Replenium and took no apparent precautions to
 17 protect Replenium's Trade Secrets and other Confidential Information. Rather, Albertsons
 18 worked in secret while continuing to receive Replenium's Trade Secrets and other Confidential
 19 Information under the protections of the MNDA and MSA.

20 95. Indeed, throughout 2023, even as Albertsons was planning to terminate the MSA
 21 and launch the Albertsons Platform, Albertsons' team members sought more detailed and
 22 technical information concerning the inner workings of the Replenium Platform, including the
 23 business logic and rationale behind it.

24 96. Notably, in February 2023, Albertsons proposed amending the MNDA to include a
 25 never-before-discussed Residuals clause that would permit Albertsons to use residual work
 26 relating to the Confidential Information.

1 97. Specifically, on February 14, 2023, Jenny Liu of Albertsons sent an email to
2 Replenium stating that Matt [Freeman] and I continue to work with the business team to look at
3 the different options to our partnership with you.” She went on, “[a]s we were talking about
4 shifting our relationship into something more strategic, we would need a basic provision to the
5 MNDA before we move forward with further discussions.” She stated that this “basic provision”
6 would “help ensure that we have the protection required as a public company in the long run as we
7 think about what the strategic relationship can look like.”

8 98. The proposed amended MNDA included language that would have granted
9 Albertsons the ability to use residuals of Replenium’s Confidential Information, including
10 information retained in the memories of its representatives who had access to Replenium’s
11 information. The proposed language provided:

12 **Residuals.** Notwithstanding any language to the contrary, nothing in
13 this Agreement will limit the ability of either party or any of its
14 Representatives to use residuals relating to the Confidential
15 Information of the other party. The term “**residuals**” means
16 information of any kind included in or relating to the Confidential
17 Information which is retained in the unaided memories of
18 Representatives of either party who have had access to the
19 Confidential Information, but not as a result of any deliberate effort
20 to memorize the information. Without limiting the foregoing, neither
21 party will have any obligation to limit or restrict the assignment of
22 its employees or to pay royalties to the other party in connection
23 with any use of residuals.

24 99. Replenium rejected that proposal and made clear that it would not agree to
25 Albertsons’ use of Replenium’s Confidential Information in that manner. Replenium was
26 particularly puzzled by this exchange given that Albertsons’ request for the residuals language
came approximately two and a half years into the parties’ commercial relationship.

 100. As Albertsons developed its undisclosed Albertsons Platform, it continued to probe
Replenium for answers to technical questions and questions about the business logic behind the
Replenium Platform. For example, in May 2023, via Slack messages, Albertsons contractors and

1 employees Jeyarani Sonai and Mary Ann Warner sought detailed information from Replenium
2 employees Richard Rector and Hasaan Maajid about how the ordering process would and should
3 work for an existing user who enrolls in Cart & Checkout in the Replenium Platform, as well as
4 for new users. Replenium responded in detail both about how the process works and *why* it was
5 designed to work that way.

6 101. Replenium further shared additional Trade Secrets and other Confidential
7 Information with Albertsons regarding Cart & Checkout through a series of emails in May 2023.
8 In these emails, several Albertsons employees, including a Technology Program Manager,
9 questioned Replenium regarding the business logic supporting the order date for existing
10 customers signing up for Cart & Checkout. Replenium's CTO, Bashir, responded to a team of
11 about six Albertsons employees, with details surrounding Replenium's suggested business logic to
12 create the most efficient process for customers using Cart & Checkout. All such information was
13 shared pursuant to the MNDA and MSA.

14 102. In the months leading up to Albertsons' termination of the MSA, Albertsons and
15 Replenium continued to have bi-weekly meetings where the parties discussed expansion criteria
16 and rollout timing. Albertsons also continued to express its enthusiasm for the Replenium
17 Platform, the partnership and the imminent national expansion, while Replenium continued to
18 invest resources and share Trade Secrets and other Confidential Information to support the
19 forthcoming expansion.

20 103. Even in the month immediately prior to Albertsons terminating the MSA and
21 launching the Albertsons Platform, Albertsons continued to work with Replenium toward a
22 nationwide expansion that Albertsons knew would not happen, while collecting more information
23 through a rollout of additional functionality for the Replenium Platform in the Northern California
24 market.

25 104. In an August 10, 2023 meeting between Albertsons and Replenium, Albertsons
26 presented a deck showing that it would launch Cart & Checkout with the Replenium Platform in

1 10 stores on August 10, 2023. Albertsons wrote that if it was successful, the experience would be
2 expanded to the rest of the Northern California stores. The same presentation showed that Cart &
3 Checkout would be launched in 240 stores on August 30, 2023, and Albertsons confirmed, “[i]f all
4 success criteria is met, we will start gradually expanding the program nationwide.”

5 105. In late August 2023, Albertsons launched the Cart & Checkout functionality with
6 the Replenium Platform in Northern California. This launch was confined to Safeway stores only
7 in Northern California and no other Albertsons-owned banners. Through this launch, the
8 Replenium Platform was made available with enhanced functionality in approximately 240 stores.
9 Albertsons launched Cart & Checkout on a small-scale by design, prior to terminating its MSA
10 with Replenium, to ensure that it had sufficient information to utilize that feature in the Albertsons
11 Platform without Replenium.

12 106. As with prior limited launches, the Replenium Platform with Cart & Checkout
13 proved successful, demonstrating the customer need and use for an auto-replenishment full-basket
14 solution, and the commercial value of the Replenium Platform. In fact, on September 6, 2023,
15 Albertsons presented the metrics to Replenium for the original 10 test stores and showed that post
16 the launch of the Replenium Platform with Cart & Checkout, Albertsons saw a 130% increase in
17 auto-replenishment sales and 97% increase in auto-replenishment orders.

18 **VI. Albertsons Terminates the MSA and Immediately Transitions from**
19 **Replenium’s Platform to its Albertsons Platform Using Replenium’s Trade**
20 **Secrets and other Confidential Information**

21 107. On October 3, 2023, without prior notice, Albertsons abruptly sent a letter to
22 Replenium terminating the MSA. Albertsons stated in the letter that the effective termination date
23 was November 15, 2023.

24 108. This termination came as a shock to Replenium. There had been no indication
25 from Albertsons that there were any potential issues with the Replenium Platform. Indeed, just
26 one day prior, on October 2, 2023, Albertsons and Replenium had scheduled code freeze dates in

1 anticipation of the upcoming November and December expansion dates for the Replenium
2 Platform. Code freeze dates represent a point in time in the development process after which the
3 rules for making changes to the source code or related resources become more strict, which is
4 meant to help move a project forward towards a release.

5 109. During the same October 2, 2023 call between Albertsons and Replenium, which
6 occurred the day prior to termination, Albertsons discussed the Banner Expansion Plan, which it
7 said was planned to commence on November 7, 2023. In that call, Albertsons informed
8 Replenium that the Replenium Platform's expansion would occur so long as a "wallet project"
9 was complete; however, Albertsons never explained the nature of the "wallet project" to
10 Replenium, or why the wallet project was a hurdle to expansion.

11 110. On an October 3, 2023 call, where Pavlovich and Wuson verbally notified
12 Replenium of Albertsons' intent to terminate the MSA, Pavlovich cited "difficult times, budget
13 constraints and an impending merger." Thus, despite the announced Kroger merger being dangled
14 in front of Replenium as a reason to continue its investment, it was later expressly cited to
15 Replenium as a reason to terminate the entire contractual relationship.

16 111. When Replenium asked what would happen to Schedule & Save, Pavlovich
17 stunningly declared that Albertsons was prepared to continue to operate Schedule & Save with
18 "internal functionality."

19 112. Shortly after the termination, while working with Albertsons' transition team,
20 Replenium learned that while Albertsons was receiving assistance from Replenium in preparation
21 for the expansion of the Replenium Platform and regularly receiving Replenium's Trade Secrets
22 and other Confidential Information from its chief technology employees, Albertsons was
23 simultaneously and surreptitiously developing the Albertsons Platform. Despite the
24 confidentiality protections in the MNDA and MSA, and Albertsons' published Code of Ethics,
25 Albertsons took no apparent steps to protect Replenium's Trade Secrets and other Confidential
26 Information during its development of the Albertsons Platform.

1 113. Indeed, Albertsons' Code of Business Conduct & Ethics emphasizes that
2 "[p]rotecting information owned, licensed, or entrusted to the Company is not only vital to our
3 success, but our *trustworthiness*." (emphasis added). It goes on to provide that employees who
4 have access to confidential information "[m]ust guard against the disclosure of that information,
5 even to other associates unless authorized"

6 114. While Albertsons' formal policies highlight integrity and trust, the Albertsons team
7 working with Replenium apparently acted in stark contrast to these principles. In fact, during a
8 meeting on October 4, 2023 to discuss the transition, an Albertsons employee informed Replenium
9 that Albertsons instructed its employees not to discuss with or mention to Replenium that
10 Albertsons was developing the Albertsons Platform.

11 115. On October 16, 2023, Replenium met with Gajjal, an EVP for Albertsons, to
12 attempt to salvage the MSA. Replenium emphasized the success of the Replenium Platform up to
13 that point and reminded Gajjal that the MNDA and MSA continued to protect Replenium's
14 Confidential Information from any type of use in connection with Albertsons' internal
15 development of a competing platform. Gajjal noted that Albertsons decided to build its own
16 platform due to two specific challenges –the user signup experience and earlier development
17 issues. Both of these issues, however, were entirely attributable to Albertsons, making clear that
18 these reasons were provided merely as pretext.

19 116. On October 18, 2023, Albertsons launched the Albertsons Platform with a design
20 and functionality that is strikingly similar to the Replenium Platform. Albertsons continued to
21 refer to the platform as Schedule & Save.

22 117. Over the course of the parties' relationship, Replenium worked in various
23 capacities with no less than two hundred Albertsons employees and independent contractors. The
24 parties' business teams had meetings at least every two weeks from Q1 2021 to Q4 2023. The
25 technology teams of Replenium and Albertsons met at least weekly, and often twice per week.
26 Replenium would have never disclosed information to Albertsons' large team over this lengthy

1 period without the protections provided by the MNDA and MSA, or, indeed, had it known that
2 Albertsons was developing a competing platform.

3 **VII. Replenium Suffers Significant Harm as a Result of Albertsons' Conduct**

4 118. Replenium invested millions of dollars annually to support the integration and
5 eventual launch of the Replenium Platform, causing close to ten million dollars of direct net losses
6 from its investment in supporting Albertsons, even after factoring in payments Replenium
7 received from Albertsons.

8 119. Replenium undertook this significant financial burden based on the parties'
9 expectation that when the Replenium Platform was timely launched and expanded nationally,
10 Replenium would receive Service Fees that would compensate it for its work. Over three years,
11 Albertsons repeatedly encouraged Replenium to continue its work on the Replenium Platform—
12 despite Albertsons' missed deadlines, countless delays, and millions in expenses incurred by
13 Replenium—precisely because Replenium would earn back the amount of its expenses and more
14 through Service Fees.

15 120. Albertsons made these statements knowing that they were untrue. Albertsons'
16 development of the Albertsons Platform laid bare the true goal of Albertsons' insistence that
17 Replenium continue to endure significant development costs. Albertsons wanted continued access
18 to Replenium's Trade Secrets and other Confidential Information underlying the Replenium
19 Platform so that it could reap the benefit of the MSA, and the information shared under the
20 MNDA and MSA, without having to pay Replenium Service Fees or any compensation for its
21 Trade Secrets and other Confidential Information.

22 121. Albertsons has now expanded Schedule & Save under the Albertsons Platform,
23 developed using technology and know-how that it received from Replenium under the MNDA and
24 MSA, across the vast majority of its stores, including some of its largest banners, such as Safeway,
25 Vons, Albertsons, and Jewel-Osco.
26

122. Albertsons misled and unfairly exercised its leverage over Replenium, including through its false and misleading statements about its planned national expansion, to obtain Replenium's Trade Secrets and other Confidential Information while it built its own competing internal solution. Albertsons knowingly placed Replenium in business distress, without any Service Fees or financial consideration for its use of that information.

COUNT I

Defend Trade Secrets Act, 18 U.S.C. § 1836 et seq.

123. Replenium incorporates by reference the allegations in the preceding paragraphs as though fully set forth herein.

124. Replenium possessed confidential Trade Secrets relating to the Replenium Platform.

125. Replenium's Trade Secrets consist of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, which were stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing which Replenium has taken reasonable measures to keep secret and which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the Trade Secrets.

126. Replenium has expended considerable time, effort, and expense in compiling and developing its Trade Secrets.

127. Replenium has undertaken reasonable methods to maintain the secrecy of its Trade Secrets, including entering into non-disclosure agreements with any party with whom it shared the information.

128. Replenium entered into an MNDA with Albertsons, which required Albertsons to safeguard and maintain the confidentiality of Replenium's Trade Secrets.

1 129. Replenium also entered into the MSA with Albertsons, which reaffirmed
2 Albertsons' confidentiality obligations.

3 130. Replenium shared its Trade Secrets with Albertsons pursuant to the protections of
4 the MNDA and the MSA.

5 131. Albertsons' disclosure or use of Replenium's Trade Secrets has been without the
6 express or implied consent of Replenium where, at the time of the disclosure or use, Albertsons
7 knew or had reason to know—in light of the MNDA and MSA—that its knowledge of
8 Replenium's Trade Secrets was acquired under circumstances giving rise to Albertsons' duty to
9 maintain their secrecy or limit their use.

10 132. Albertsons has exploited Replenium's Trade Secrets to the benefit of Albertsons
11 and the detriment of Replenium in order to develop a full-basket auto-replenishment system and
12 unfairly compete with Replenium.

13 133. Albertsons' misappropriation of Replenium's Trade Secrets was with knowledge
14 that such action was a breach of its obligations under the MNDA and MSA and its duty to limit its
15 use of the Trade Secrets. Despite this, Albertsons continued to utilize Replenium's Trade Secrets
16 for its own benefit and endeavors.

17 134. Albertsons' misappropriation of Replenium's Trade Secrets was and continues to
18 be reckless and malicious.

19 135. As a direct and proximate result of Albertsons' misappropriation of Replenium's
20 Trade Secrets, Replenium has suffered, and continues to suffer, significant damages.

21 136. There is no justification for Albertsons' wrongful conduct, which is improper and
22 taken for commercial benefit. Albertsons' conduct has proximately and directly caused and will
23 continue to cause irreparable harm to Replenium. Replenium has incurred additional harm in
24 devoting time and resources to undo damage done by Albertsons and to prevent further harm.

25 137. Replenium has been damaged as a result of Albertsons' conduct and is entitled to
26 damages in an amount to be proven at trial, as well as exemplary damages, injunctive relief or a

1 reasonable royalty, any unjust enrichment not encompassed in the computation of Replenium's
2 losses, and an award of attorneys' fees pursuant to 18 U.S.C. § 1836(b)(3).

3 **COUNT II**

4 **Washington Uniform Trade Secrets Act, R.C.W. § 19.108.010, *et seq.***

5 138. Replenium incorporates by reference the allegations in the preceding paragraphs as
6 though fully set forth herein.

7 139. Replenium possessed confidential Trade Secrets relating to the Replenium
8 Platform.

9 140. Replenium's Trade Secrets consist of information, including a formula, pattern,
10 compilation, program, device, method, technique or process that derives independent economic
11 value, actual or potential, from not being generally known to, and not being readily ascertainable
12 by proper means by, other persons who can obtain economic value from their disclosure or use,
13 and are the subject of efforts that are reasonable under the circumstances to maintain their secrecy.

14 141. Replenium has expended considerable time, effort, and expense in compiling and
15 developing the Trade Secrets.

16 142. Replenium has undertaken reasonable methods to maintain the secrecy of its Trade
17 Secrets, including entering into non-disclosure agreements with any party with whom it shared the
18 information.

19 143. Replenium entered into an MNDA with Albertsons, which required Albertsons to
20 safeguard and maintain the confidentiality of Replenium's Trade Secrets.

21 144. Replenium also entered into the MSA with Albertsons, which reaffirmed
22 Albertsons' confidentiality obligations.

23 145. Replenium shared its Trade Secrets with Albertsons pursuant to the protections of
24 the MNDA and the MSA.

1 146. Albertsons has exploited Replenium's Trade Secrets to the benefit of Albertsons
2 and the detriment of Replenium in order to develop a full-basket auto-replenishment system,
3 referred to herein as the Albertsons Platform, and unfairly compete with Replenium.

4 147. Albertsons' disclosure or use of Replenium's Trade Secrets has been without the
5 express or implied consent of Replenium where, at the time of the disclosure or use, Albertsons
6 knew or had reason to know—in light of the MNDA—that its knowledge of Replenium's Trade
7 Secrets was acquired under circumstances giving rise to Albertsons' duty to maintain their secrecy
8 or limit their use.

9 148. Albertsons' misappropriation of Replenium's Trade Secrets was with knowledge
10 that such action was a breach of its obligations under the MNDA and its duty to limit its use of the
11 Trade Secrets. Despite this, Albertsons continued to utilize Replenium's Trade Secrets for its own
12 benefit and endeavors.

13 149. Albertsons' misappropriation of Replenium's Trade Secrets was and continues to
14 be willful and malicious.

15 150. As a direct and proximate result of Albertsons' misappropriation of Replenium's
16 Trade Secrets, Replenium has suffered, and continues to suffer, significant damages.

17 151. Albertsons' misappropriation of Replenium's Trade Secrets has caused Replenium
18 substantial injury, including, inter alia, actual damages, lost profits, harm to reputation,
19 competitive harm, and diminution in value of its Trade Secrets.

20 152. Replenium has been damaged as a result of Albertsons' conduct and is entitled to
21 damages in an amount to be proven at trial, as well as exemplary damages, injunctive relief or a
22 reasonably royalty, any unjust enrichment not encompassed in the computation of Replenium's
23 losses, and an award of attorneys' fees pursuant to R.C.W. § 19.108.030-40.

COUNT III

Breach of the MNDA and the Confidentiality Provisions of the MSA

153. Replenium incorporates by reference the allegations in the preceding paragraphs as though fully set forth herein.

154. Replenium and Albertsons are parties to the MNDA.

155. The MNDA is a valid and binding contract.

156. Pursuant to § 4 of the MNDA, Albertsons agreed to only “use Confidential Information solely for the Purpose, and for no other purpose” and to not “export, reverse engineer, disassemble or decompile any prototypes software or other tangible objects that embody the other party’s Confidential Information.”

157. “Purpose” pursuant to the MNDA was that “[t]he parties wish[ed] to share information for the purpose of evaluating the suitability of entering into a business relationship or in furtherance of an existing business relationship.” MNDA § 1.

158. Section 4 of the MNDA also prohibited Albertsons from disclosing the Confidential Information to any of its representatives outside of those who needed to know it for the MNDA’s defined Purpose.

159. Replenium and Albertsons are also parties to the MSA.

160. The MSA is a valid and binding contract.

161. The MSA affirms, at section 9.1, that all confidential and proprietary information disclosed by one party to the MSA to the other party “concerning or pertaining to the business of the disclosing party shall be subject to the terms of the [MNDA].”

162. Further, section 11.3(c) of the MSA provides that “Albertsons will use its reasonable efforts to protect Company’s Intellectual Property rights in the Services and will report promptly to Company any infringement or misappropriation of such rights of which Albertsons becomes aware.”

1 information, facilities, and equipment as reasonably requested by Company from time to time,
2 including, without limitation, providing Albertsons Content, personnel assistance, security access,
3 and software interfaces to the Albertsons Sites; (b) cooperate with Company pursuant to the
4 integration documents to be provided by Company; and (c) carry out in a timely manner all other
5 Albertsons obligations set forth in this Agreement.”

6 172. SOW §1.6 also requires Albertsons to “maximize the number of Replenishment
7 Orders placed by Customers.”

8 173. Replenium fulfilled its obligations under the MSA, devoting immense resources
9 and investing significant man-hours and hundreds of thousands of dollars per month, including
10 labor and technical infrastructure costs to provide Albertsons with the automated replenishment
11 SaaS Services and the Replenium Platform.

12 174. Albertsons breached the MSA by failing to cooperate with Replenium in good faith
13 to accomplish the purpose of the MSA, failing to timely launch the Replenium Platform, failing to
14 timely carry out its obligations under the MSA, failing to maximize the number of Replenishment
15 Orders placed by its customers, and by diverting its resources toward launching its own auto-
16 replenishment solution while requiring Replenium to continue to invest in a nationwide expansion
17 under the MSA.

18 175. Replenium suffered and will continue to suffer substantial damages as a result of
19 this breach of the MSA by Albertsons.

20 **COUNT V**

21 **Breach of the Implied Covenant of Good Faith and Fair Dealing**

22 176. Replenium incorporates by reference the allegations in the preceding paragraphs as
23 though fully set forth herein.

24 177. Replenium and Albertsons entered into the MSA.

25 178. Every contract contains implied covenants of good faith and fair dealing, which is a
26 presumption that the parties to the contract will deal with each other honestly, fairly, and in good

1 faith, so as to not destroy the rights of the other party or parties to receive the benefits of the
2 contract. The implied covenants of good faith and fair dealing also prevent parties from
3 unreasonably exercising discretion pursuant to a contract.

4 179. The MSA was agreed upon for the purpose of Albertsons and Replenium working
5 together toward a nationwide expansion of the Replenium Platform, including the full set of
6 service features described in the MSA.

7 180. Albertsons had a duty to act in good faith and work toward a nationwide expansion
8 of the Replenium Platform, with a full set of service features, consistent with the purpose of the
9 MSA.

10 181. Albertsons destroyed the purpose of the MSA by acting in bad faith to delay the
11 national expansion of the Replenium Platform, failing to incorporate service features specified in
12 the SOW, failing to disclose to Replenium that Albertsons was simultaneously developing its own
13 auto-replenishment platform, failing to protect Replenium's Trade Secrets and other Confidential
14 Information while developing its own auto-replenishment platform, using Replenium's Trade
15 Secrets and other Confidential Information in connection with its development of the Albertsons
16 Platform, and terminating the MSA on the eve of Albertsons' nationwide expansion of the
17 Replenium Platform to deprive Replenium of the benefit of its bargained-for Services Fees.

18 182. Albertsons was aware that Replenium would not have entered into, or continued to
19 perform services under the MSA for three years, or shared Trade Secrets and other Confidential
20 Information, had it known that Albertsons would terminate the MSA prior to a nationwide
21 expansion or that Albertsons was planning to launch an internally developed auto-replenishment
22 platform to replace the Replenium Platform.

23 183. Albertsons repeatedly and intentionally delayed the launch and national expansion
24 of the Replenium Platform while it used Replenium's Trade Secrets and other Confidential
25 Information it obtained pursuant to the MNDA and MSA to create and launch the Albertsons
26

Platform. In doing so, Albertsons intentionally deprived Replenium of the benefit of the bargain of the MSA.

184. Replenium suffered and will continue to suffer substantial damages as a result of Albertsons' breach of the implied covenants of good faith and fair dealing.

COUNT VI

Promissory Estoppel

185. Replenium incorporates by reference the allegations in the preceding paragraphs as though fully set forth herein.

186. Albertsons repeatedly represented to Replenium that Albertsons would engage in a nationwide expansion of the Replenium Platform in Albertsons' locations across the country and that Replenium would receive Service Fees based on that expansion to compensate it for its losses during Albertsons' contract delays.

187. Replenium relied on Albertsons' representations that Albertsons would conduct a nationwide expansion of the Replenium Platform.

188. Replenium's reliance on Albertsons' representations induced Replenium to continue its work on the Replenium Platform beyond its obligations under the MSA and to incur additional substantial costs in order to continue to support the Replenium Platform.

189. Albertsons specifically represented to Replenium that the Replenium Platform would nationally expand on specific dates, including July 22, 2022 and February 15, 2023, inducing Replenium to incur significant implementation costs in reliance on those representations.

190. Replenium has suffered significant financial hardship and damages as a result of Albertsons' failure to nationally expand the Replenium Platform.

COUNT IV

Unjust Enrichment

191. Replenium incorporates by reference the allegations in the preceding paragraphs as though fully set forth herein.

1 B. Enter judgment that Albertsons violated the Washington Uniform Trade Secret Act
2 by misappropriating Replenium's Trade Secrets;

3 C. Enter judgment that the MNDA is valid and enforceable, and has been breached by
4 Albertsons, and that Replenium has been damaged as a result of Albertsons' breach;

5 D. Enter judgment that the MSA is valid and enforceable, and has been breached by
6 Albertsons, and that Replenium has been damaged as a result of Albertsons' breach;

7 E. Enter judgment that Albertsons breached the implied covenant of good faith and
8 fair dealing implied in the MSA, and that Replenium has been damaged as a result of Albertsons'
9 breach;

10 F. Enter judgment that Albertsons made promises to Replenium, upon which
11 Replenium reasonably relied to its detriment;

12 G. Enter judgment that Albertsons has been unjustly enriched as a result of unjustly
13 avoided costs to build the Albertsons Platform and by reaping the benefit of Replenium's services
14 and information without just compensation;

15 H. Award Replenium a monetary judgment against Albertsons in an amount to be
16 determined at trial;

17 I. Award Replenium exemplary double damages as authorized by law;

18 J. Award Replenium attorneys' fees in such other amounts as may be proven by trial
19 or as otherwise provided by law;

20 K. Award Replenium pre- and post-judgment interest; and

21 L. Grant such other and further relief as this Court deems just and proper.
22
23
24
25
26

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED this 19th day of August, 2024.

SUMMIT LAW GROUP, PLLC

By s/ Lawrence C. Locker

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jspiro@shnlegal.com

mpaley@shnlegal.com

Attorneys for Plaintiff Replenium Inc.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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

REPLENIUM INC.,

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Lawrence C. Locker, WSBA #15819, SUMMIT LAW GROUP, PLLC
315 Fifth Avenue S., Suite 1000, Seattle, WA 98104
Telephone: (206) 676-7000; Email: larryl@summitlaw.com



DEFENDANTS

ALBERTSONS COMPANIES, INC.,

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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)

Click here for: [Nature of Suit Code Descriptions.](#)

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	PERSONAL INJURY <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 PERSONAL INJURY <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 PERSONAL PROPERTY <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 LABOR <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 IMMIGRATION <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 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input checked="" type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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 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 (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <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
REAL PROPERTY <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	CIVIL RIGHTS <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 PRISONER PETITIONS Habeas Corpus: <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 Other: <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):
18 USC Section 1836

Brief description of cause: Misappropriation of trade secrets and related claims

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ TBD

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

August 19, 2024

SIGNATURE OF ATTORNEY OF RECORD

s/ Lawrence C. Locker

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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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.
- 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 cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

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