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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

ZURCHER TIRE, INC., )

Plaintiff, )

v. )

MICHAEL BOLAND, )

Defendant. )

Case No.: 1:24-cv-518

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**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

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Plaintiff Zurcher Tire, Inc. (“Zurcher”), for its Complaint for Injunctive Relief and Damages against Defendant Michael Boland, hereby alleges and states as follows:

**I. PARTIES**

1. Zurcher is a domestic for-profit corporation with its principal place of business at 101 N. Polk St., Monroe, Indiana, 46772. Zurcher tire is a leading tire distributor.

2. Michael Boland is a citizen of Michigan domiciled at 1321 Rolling Ridge Lane, Sturgis, Michigan 49091.

**II. JURISDICTION AND VENUE**

3. Zurcher repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

4. Subject-matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331, as this action arises in part under the federal Defend Trade Secrets Act, 18 U.S.C. § 1836 *et seq.*, and

pursuant to 28 U.S.C. § 1367 because all supplemental state law claims arise out of the same case or controversy as the federal claims over which this Court has original jurisdiction.

5. This Court has personal jurisdiction over the parties.

6. Venue is appropriate in this District as a substantial part of the events or omissions giving rise to the claim occurred within this Court's jurisdictional boundaries.

### **III. FACTUAL ALLEGATIONS**

#### **A. Zurcher Tire, Inc.'s Business and Employment of Boland.**

7. Zurcher repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

8. Zurcher is a nationwide tire distributor with inventory that includes tires for the consumer, commercial, agricultural, over-the-road, lawn and garden, and trailer markets.

9. On July 1, 2019, Zurcher acquired certain assets used in Boland Tire, Inc.'s ("Boland Tire") wholesale tire distribution business.

10. At the time of the acquisition, Boland was employed in Boland Tire, Inc.'s wholesale tire distribution business and thereafter became employed by Zurcher.

11. Boland was employed by Zurcher as an inside sales representative from on or about July 1, 2019, until his employment with Zurcher ended in 2024. Specifically, Boland remained on Zurcher's payroll until October 18, 2024, and received health benefits until October 31, 2024.

12. Boland was assigned a Zurcher email account at or about the time of his hire in 2019 and retained access to that account throughout his employment.

13. Prior to his employment with Zurcher, Boland had been assigned a Boland Tire email, which Boland retained access to throughout his employment with Zurcher and thereafter.

**B. Zurcher Tire, Inc.'s Confidential Trade Secret Information.**

14. Boland was a trusted sales employee of Zurcher and was entrusted by Zurcher with substantial confidential trade secret information of Zurcher to perform his job duties.

15. Boland had access to Zurcher's trade secrets including, but not limited to customer lists, customer information, customer account numbers and passwords, customer pricing, customer purchase history, and Zurcher financial information, all constituting trade secrets.

16. To protect and preserve its trade secrets, Zurcher uses firewalls, antivirus software, intrusion protection and detection systems, encryption mechanisms, physical safeguards, and routine server backups. Zurcher further protects such information through the use of employment policies and procedures.

17. For example, Zurcher maintains employment policies that protect its trade secrets, including its Employee Handbook that reads:

**CONFIDENTIALITY AND SECURITY**

You are expected to maintain the confidentiality of the Company's trade secrets and private or confidential information. Examples of confidential information include: sales, customer, and pricing information, passwords and passcodes, and information regarding the development of processes, know-how and technology. No Company files may be removed from Company premises or transmitted to non-employees without the express permission of your supervisor.

You are expected to maintain the security of Company-provided equipment and Company premises. Please bring any concerns to your supervisor.

18. Boland signed an Employee Handbook Acknowledgement and Receipt on or about July 31, 2020.

19. Zurcher's trade secrets provide it with a business advantage over competitors that do not have access to, or knowledge of, these trade secrets.

**C. Boland Effectuates an Inexplicable Mass Email Deletion at the Conclusion of His Employment**

20. On or about August 27, 2024, Boland was informed that his employment with Zurcher was going to end due to one or more violations of Zurcher's employment policies. However, Boland remained on the payroll through October 18, 2024, and received health benefits through October 31, 2024.

21. Between August 26, 2024, and August 27, 2024, Boland deleted approximately 146 emails from his Zurcher email account.

22. Upon information and belief, Zurcher believes many of the deleted emails contained Zurcher's confidential and trade secret information and were deleted to conceal the misappropriation of such information and other disloyal conduct. Further, there was no legitimate business reason for Boland's mass deletion.

**D. Boland Discloses Zurcher's Trade Secret Information to a Competitor, including a Self-Described "LARGE customer list"**

23. Following the conclusion of Boland's employment with Zurcher, Boland began to communicate with a direct competitor of Zurcher, North Gateway Tire ("North Gateway"), about potential employment.

24. Upon information and belief, Boland is now employed by North Gateway in the same or similar capacity as he was employed at Zurcher.

25. Boland has provided North Gateway with Zurcher's confidential and trade secret information.

26. From October 17, 2024, to November 2, 2024, Boland sent numerous emails containing Zurcher's confidential and trade secret information files to his prospective employer,

North Gateway. These emails included Zurcher's customer information, customer pricing, customer's ordering history from Zurcher, and Zurcher's customer account numbers.

27. Specifically, on October 17, 2024, and while still on Zurcher's payroll, Boland sent an email to North Gateway indicating "I probably have 100+ other contacts/accounts in Michigan and northern Indiana that are still very loyal to me. I will be more than happy to share any of them with you that are located in 'your current territory' if I obtain the salesman position [with North Gateway] in Seville." Boland then provided North Gateway with information regarding a Zurcher customer.

28. The same day, an employee for North Gateway sent an email to Boland thanking him for providing the information.

29. On October 18, 2024, Boland sent a Zurcher customer's information to North Gateway indicating the customer "do[es] a TON of business" with Zurcher. Boland's email also indicated Zurcher's pricing information for a tire that the customer frequently purchases and questioned why the competitor's pricing was higher compared to Zurcher's.

30. That same day, an employee of North Gateway indicated to Boland that "any doors you could open" with the identified customer "would be much appreciated." The North Gateway employee further indicated they "would be happy to work on pricing as much as possible."

31. Also, on October 18, 2024, Boland sent North Gateway an email providing a different Zurcher customer's information. The North Gateway representative indicated its "current route does not go" to the customer's location, but North Gateway hopes "to expand further north soon."

32. On or about October 23, 2024, Boland sent an employee of North Gateway an email indicating that he was going to be "sending [them] a LARGE customer list." That same day,

Boland sent information to North Gateway regarding over a dozen different Zurcher customers. The customers were located in both Michigan and Indiana.

33. “A business’s customer list can be a trade secret.” *Titus v. Rheitone, Inc.*, 758 N.E.2d 85, 95 (Ind. Ct. App. 2001).

**E. After Being Removed from Zurcher’s Payroll, Boland Deals in Zurcher’s Customer Account Numbers and Likely Accessed Zurcher’s Secure Customer Portal for Competitive Purposes**

34. Zurcher’s enhanced service platform (“ESP”), Tireweb, connects seamlessly with Zurcher’s tire dealer system, MaddenCo, to optimize Zurcher’s customer experience. Tireweb was paid for by Zurcher to provide customers with a user-friendly interface to log-in and securely view Zurcher’s current inventory, place orders, review their order history, and manage their account information. Each customer has their own individual log-in credential.

35. On October 25, 2024, access logs reveal that between approximately 1:15 p.m. to 1:21 p.m., Zurcher’s secure customer portal was accessed and information regarding three different customer accounts was viewed. Within minutes of this access, Boland sent an email from his Boland Tire email account to his personal email account with the account numbers **for those same customers.**

36. On November 2, 2024, Boland sent an email from his Boland Tire email account to his personal email account with more Zurcher customer account numbers.

37. Boland had no legitimate reason to access or even possess Zurcher customer account numbers after his employment with the company ended.

38. Upon information and belief, Boland utilized the Zurcher customer account numbers for competitive purposes, including to gain access to Zurcher’s secure customer portal.

39. Boland was hired by North Gateway and his first official day of employment was on or about November 11, 2024, which is only days after providing North Gateway with Zurcher's confidential and trade secret information.

40. Boland's work on behalf of a competitor armed with Zurcher's confidential and trade secret information places Zurcher in a highly precarious position in which it must attempt to retain and grow its business in the face of unfair and illegal competition.

#### **IV. CAUSES OF ACTION**

##### **COUNT I: TRADE SECRET MISAPPROPRIATION AGAINST BOLAND (18 U.S.C. §§ 1832, 1836 *et seq.*)**

41. Zurcher repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

42. Zurcher has developed, owns, and possesses trade secrets, as alleged and described above, including, but not limited to customer lists.

43. Zurcher makes substantial efforts to keep its proprietary information secret from its competitors and the public. At all relevant times, Zurcher has taken reasonable efforts to maintain the secrecy of its trade secrets, as described above.

44. Zurcher has invested substantial resources in developing its trade secrets. Such information therefore 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 information.

45. Zurcher's information set forth above constitute trade secrets under the Defend Trade Secrets Act, 18 U.S.C. §§ 1832, 1836, *et seq.*

46. Under the Defend Trade Secrets Act, 18 U.S.C. §§ 1832, 1836, *et seq.*, Boland has a duty not to misappropriate Zurcher's trade secrets.

47. Boland acquired and/or derived knowledge and custody of Zurcher's trade secrets through improper means, and has disclosed those trade secrets to others, including North Gateway.

48. Due to Boland's use and/or disclosure of Zurcher's confidential and trade secret information, including disclosure to his new employer, Boland has misappropriated Zurcher's trade secrets for his benefit and/or for the benefit of his new employer.

49. Through his actions, Boland used, acquired, derived and/or disclosed Zurcher's trade secrets via improper means, as alleged herein.

50. Boland knew or had reason to know that Zurcher's trade secrets were confidential. Further, Boland knew Zurcher's trade secrets were valuable as he leveraged them to induce North Gateway to hire him.

51. Upon information and belief, Boland misappropriated Zurcher's trade secrets and used them to divert and/or attempt to divert business at Zurcher's expense.

52. Upon information and belief, Boland's conduct, including but not limited to his unlawful misappropriation of Zurcher's trade secrets as alleged above, has caused Zurcher irreparable injury. Unless restrained and enjoined, Boland will continue to engage in such acts. Zurcher's remedy at law is therefore inadequate to compensate it for the past and threatened injuries and thus Zurcher is entitled to injunctive relief as provided for by the Defend Trade Secrets Act, 18 U.S.C. § 1836(b)(3)(A).

53. Zurcher is also entitled to and prays for all other remedies available under the Defend Trade Secret Act, 18 U.S.C. § 1836, including damages pursuant to 18 U.S.C. §



1836(b)(3)(B). Zurcher requests the Court grant the requested remedies against Boland in this action.

54. Each of the aforementioned acts was done willfully and maliciously, with the deliberate intent to injure Zurcher and with the conscious disregard of Zurcher's rights. Zurcher is entitled pursuant to 18 U.S.C. § 1836(b)(3)(D) to an award of its reasonable attorneys' fees.

### **COUNT II: BREACH OF DUTY OF LOYALTY AGAINST BOLAND<sup>1</sup>**

55. Zurcher repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

56. Boland, as a sales representative, owed Zurcher a duty of loyalty.

57. Boland breached that duty of loyalty by deleting information from Zurcher's devices and accounts and, on information and belief, accessing Zurcher's confidential and trade secret information for no legitimate business purpose, all while still employed and paid by Zurcher.

58. As a direct and proximate result of the Boland's conduct, Zurcher has been damaged and is entitled to recover all available damages, including compensatory and punitive damages.

### **COUNT III: UNFAIR COMPETITION**

59. Zurcher hereby incorporates the foregoing allegations as though restated in full herein.

60. Indiana law recognizes the tort of unfair competition for the protection of commercial values.

61. Boland's misconduct alleged above constitutes unfair competition.

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<sup>1</sup> Zurcher is cognizant of the fact that an employee's duty of loyalty ordinarily ends at the conclusion of employment. However, the advantage Boland and Zurcher's competitor gained by Boland's disloyal conduct (in addition to his misappropriation of trade secrets) may still warrant injunctive relief now.

62. Boland's actions have been willful, reckless, and malicious.

63. As a direct and proximate result of the Boland's conduct, Zurcher has been damaged and is entitled to recover all available damages, including compensatory and punitive damages.

64. Among other remedies, Boland is obligated to disgorge any profits or earnings they obtained by virtue of their unfair competition.

#### **COUNT IV: PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

65. Zurcher repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.

66. As a direct and proximate result of Boland's conduct, Zurcher has suffered, and will continue to suffer, irreparable harm in the loss of business opportunities as well as harm to its goodwill and confidential and trade secret information in an amount that cannot be fully, completely, and adequately remedied at law.

67. Boland has and continues to willfully violate the Defend Trade Secret Act with acts which include but are not limited to taking Zurcher's confidential information before the end of his employment with Zurcher and intentionally providing Zurcher's confidential and trade secret information to a direct competitor of Zurcher.

68. Without injunctive relief against Boland *and all those in active concert or participation with him*, he will continue to harbor Zurcher's confidential and trade secret information, thereby causing Zurcher immediate and irreparable harm. In contrast, no harm will accrue to Boland by entry of injunctive relief as Boland never had the right to violate his obligations to Zurcher.

69. Injunctive relief is appropriate because protection and maintenance of Zurcher's proprietary information, including its trade secrets, is a vital and legitimate business concern. In the absence of injunctive relief, it is highly unlikely that Zurcher will have the ability to precisely calculate the extent of the harm caused by Boland's actions.

70. The public interest will not be harmed if an injunction is granted.

71. Given Boland's willful and deliberate violations of his obligations, any bond required to be posted by Zurcher should be *de minimis*.

## V. PRAYER FOR RELIEF

Plaintiff Zurcher Tire, Inc. prays the Court will grant judgment in its favor and against Defendant Michael Boland as follows:

(i) enjoin Boland, *and those acting in concert with him*, from misappropriating Zurcher's trade secrets;

(ii) award damages in favor of Zurcher and against Boland for all damages stemming from his misappropriation of trade secrets;

(iii) award damages in favor of Zurcher and against Boland for all damages stemming from his breach of duty of loyalty;

(iv) award damages in favor of Zurcher and against Boland for all damages stemming from his unfair competition;

(v) award attorneys' fees and costs in favor of Zurcher and against Boland as set forth in 18 U.S.C. § 1836(b)(3)(D); and

(vi) grant all other relief the Court deems just and proper in the circumstances.

## VI. JURY DEMAND

Zurcher requests a jury trial on all issues so triable.

Dated: December 9, 2024.

Respectfully submitted,

**BARNES & THORNBURG LLP**

/s/ Jason T. Clagg

Jason T. Clagg, Atty. No. 24123-02  
Cody D. Woods, Atty. No. 38424-02  
888 S. Harrison Street, Suite 600  
Fort Wayne, IN 46802  
Phone: (260) 423-9440  
Fax: (260) 424-8316  
Email: jason.clagg@btlaw.com  
cwoods@btlaw.com

*Attorneys for Zurcher Tire, Inc.*