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8 PASSPORT FOODS (SVC), LLC

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11

12 PASSPORT FOODS (SVC), LLC, a
13 Delaware limited liability company,

14 Plaintiff,

15 v.

16 CULINARY INTERNATIONAL,
17 LLC, a Delaware limited liability
18 company, and SIMPLE FOODS
19 LLC, a Delaware limited liability
20 company,

21 Defendants.
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Case No. 5:22-cv-00461

**COMPLAINT FOR
MISAPPROPRIATION OF TRADE
SECRETS [18 U.S.C. § 1836 *ET*
SEQ.], BREACH OF CONTRACT,
AND INTENTIONAL
INTERFERENCE WITH
CONTRACTUAL RELATIONS**

1 Plaintiff Passport Foods (SVC), LLC (“Passport”), for its Complaint against
2 Culinary International, LLC (“Culinary”) and Simple Foods LLC (“Simple Foods”)
3 (collectively “Defendants”) alleges as follows:

4 **PARTIES**

5 1. Plaintiff Passport is a limited liability company organized and
6 operating under the laws of Delaware with its principal place of business in
7 Ontario, California.

8 2. Defendant Culinary is a limited liability company organized and
9 operating under the laws of Delaware with its principal place of business in Vernon,
10 California.

11 3. Defendant Simple Foods is a limited liability company organized and
12 operating under the laws of Delaware with its principal places of business in
13 Vernon, California.

14 4. Defendants, and each of them, are and at all times mentioned herein
15 were, the alter-egos, parents, subsidiaries, agents, partners, associates, joint-
16 venturers, servants, employees, and/or other authorized representatives of each of
17 the remaining Defendants, and in doing the things herein alleged were acting within
18 the course and scope of their authority, agency, and employment, and with the
19 knowledge, consent, and approval of their fellow Defendants, and each of them. As
20 such, Defendants, and each of them, are directly and vicariously, joint and
21 severally, and coextensively liable with each of the remaining Defendants.

22 **JURISDICTION AND VENUE**

23 5. The Court has subject-matter jurisdiction over this action under 28
24 U.S.C. section 1331 because Passport brings claims against Defendants under 18
25 U.S.C. section 1836 *et seq.* and supplemental jurisdiction over the remaining state-
26 law claims because they arrive from the same nucleus of operative facts pursuant to
27 28 U.S.C. section 1367.

28 6. Venue is proper in this Court because Defendants reside in this District

1 and because a substantial part of the events giving rise to Passport's claims against
2 Defendants occurred in this District.

3 GENERAL ALLEGATIONS

4 7. Since 1978, Passport has produced unique and quality foods for
5 restaurants, schools, on-site dining rooms and cafeterias, and for retail sale.
6 Passport has established a reputation in its industry as a provider of high-quality
7 food products.

8 8. Passport markets its food products for retail sale under several brand
9 names, including under the "Sofia's Kitchen" brand name. Sofia's Kitchen products
10 are inspired by the enticing blend of Spanish and Aztec influences behind the most
11 popular dishes of Mexico.

12 9. One of Passport's most successful and sought-after products marketed
13 to retail outlets under the Sofia's Kitchen trade name is Passport's Sofia's Kitchen
14 Organic Chicken Flautas ("SK Flautas"). Passport's SK Flautas product has been
15 available for retail purchase since 2017. Passport has invested significant time and
16 resources into developing the recipe for its popular SK Flautas.

17 10. The recipe for Passport's SK Flautas, and specifically the proportions
18 and quantities of ingredients contained in Passport's SK Flautas, are trade secrets.

19 11. The market for pre-prepared organic food products is competitive, and
20 Passport's SK Flautas product, including its recipe, are commercially valuable to
21 Passport, with significant annual retail sales of the product in the California Bay
22 Area alone.

23 12. Due to the competitive nature of the organic food retail market, as well
24 as cost constraints facing organic food producers, Passport derives independent
25 economic value from its trade secret because Passport is able to produce the SK
26 Flautas product in a manner that results in a cost-efficient, high quality product that
27 is desired by consumers and retail vendors and that surpasses its competition.

28 13. Passport takes reasonable measures to conceal and protect its trade

1 secret, including by strictly limiting the number of employees with access to the
2 preparation of the SK Flautas product, limiting and controlling the distribution of
3 the SK Flautas recipe, and by requiring third parties engaged in the manufacture
4 and/or preparation of SK Flautas to execute confidentiality and/or non-disclosure
5 agreements prohibiting disclosure or dissemination of the recipe.

6 14. Passport's SK Flautas product is sold at retail locations in at least
7 California and Texas.

8 15. A key retailer of Passport's SK Flautas is the Costco Wholesale
9 organization ("Costco"), which has sold Passport's SK Flautas in numerous Costco
10 locations in California and Texas. Food companies actively compete for the
11 privilege of selling to large retail chains like Costco, and Passport's success in
12 selling its SK Flautas at numerous Costco locations is a reflection of Passport's
13 hard work in developing and creating the SK Flautas product recipe.

14 **A. PASSPORT'S MUTUAL CONFIDENTIALITY AND NON-**
15 **DISCLOSURE AGREEMENT WITH CULINARY**

16 16. In or about the first quarter of 2020, Passport began preliminary
17 negotiations with Culinary to engage Culinary as a co-packer for Passport food
18 products. Under the proposed co-packer arrangement, Culinary was to assist with
19 processing, manufacturing, packaging, and palletizing certain Passport products
20 according to the formulas, specifications, processes and procedures owned by
21 Passport.

22 17. In March 2020, and as a condition of Passport continuing negotiations
23 with Culinary regarding the proposed co-packer arrangement, Passport required
24 Culinary to enter into a Mutual Confidentiality and Non-Disclosure Agreement
25 ("NDA").

26 18. Culinary's CEO, Robert Sabahat, executed the NDA on March 12,
27 2020.

28 19. Under the NDA, Culinary agreed to, *inter alia*, keep Passport's

1 “Confidential Information strictly confidential.”

2 20. The term “Confidential Information” is defined in Section A.1. of the
3 NDA to include “any and all trade secrets and other confidential information
4 obtained from or disclosed by [Passport] or otherwise . . . including without
5 limitation all information, data, documents, agreements, files, trade secrets . . .
6 intellectual property . . . system designs, product designs, and other material
7 whether disclosed orally or disclosed or stored in written, electronic, or other form
8 or media . . . including without limitation any information concerning business
9 plans, processes and methods, product or process specifications and designs,
10 inventions, technical know-how, business and marketing plans, financial
11 information, customer data, research and development activities and other materials
12 or information relating to [Passport’s] business or activities which are not generally
13 known to the public[.]”

14 21. Section A.2. of the NDA further provides that “Confidential
15 Information also includes other information that is marked or otherwise identified
16 as confidential or proprietary, or that would otherwise appear to a reasonable person
17 to be confidential or proprietary in the context and circumstances in which the
18 information is known or used.”

19 22. Under Section E.1. of the NDA, Culinary further agreed that
20 Passport’s “Confidential Information is valuable and unique,” that Passport’s
21 “ability to reserve the Confidential Information for [Passport’s] exclusive
22 knowledge and use is of great competitive importance and commercial value to
23 [Passport]” and that Culinary’s “disclosure thereof in breach of this Agreement may
24 result in irreparable harm and injury” to Passport and “money damages would not
25 be a sufficient remedy for any breach or potential breach of” the NDA by Culinary.

26 23. Culinary further agreed under Section E.2. of the NDA that in “the
27 event of a breach or threatened breach by [Culinary] of any provision of this
28 Agreement, [Culinary] hereby consents and agrees that [Passport], without



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