

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

WILLS LOGISTICS, LLC,	)	
	)	
Plaintiff/Counter-Defendant,	)	
	)	
v.	)	Case No. 25-0418-BC
	)	
INGRAM BARGE COMPANY, LLC,	)	
	)	
Defendant/Counter-Plaintiff,	)	
	)	
v.	)	
	)	
MELVIN WILLS and TYLER WEHNER,	)	
	)	
Third-Party Defendants.	)	

MEMORANDUM AND ORDER ON MOTIONS FOR SUMMARY JUDGMENT

This matter came before the Court on July 30, 2026, upon Plaintiff Plaintiff/Counter-Defendant Wills Logistics, LLC's ("Wills Logistics") Motion for Summary Judgment, Wills Logistics and Third-Party Defendants Melvin Wills and Tyler Wehner's (collectively the "Wills Parties") Amended Motion for Summary Judgment, and Defendant/Counter-Plaintiff Ingram Barge Company, LLC's ("Ingram Barge") Motion for Summary Judgment. Wills Logistics seeks summary judgment on its claims for Count I tortious interference with prospective business relationships and Count II abuse of process. The Wills Parties seek summary judgment on Ingram Barge's counterclaims for Count I misappropriation of trade secrets and Count III civil conspiracy.¹ Ingram Barge seeks summary judgment on all claims and counterclaims.

The parties extensively briefed and argued the relevant issues. The Court is now ready to rule on the Motions.

¹ There is no Count II in the counter-complaint.

UNDISPUTED MATERIAL FACTS

Ingram Barge

Ingram Barge is a barge transportation company that is a part of the Ingram Marine Group and holds itself out as one of the leading logistics and transportation providers in North America. Ingram Barge has around 3,000 employees in several offices across at least a dozen locations in Tennessee, Kentucky, Illinois, Missouri, Ohio, Louisiana, and Texas. Ingram Barge has a substantial number of customers, current contracts, and former employees operating in the barge transportation industry and marketplace.

Charles Arnold is the Chief Commercial Officer of Ingram Barge, responsible for commercial sales strategy and customer relationships and reports directly to CEO John Roberts. Andrew Brown is the Chief Legal Officer of Ingram Barge. Steve Alley worked in the barge industry for approximately forty (40) years. At Ingram Barge, Mr. Alley rose to Vice President of External Sales and supervised salespeople, including Thomas Kinnard and Tyler Wehner. Mr. Alley was the sales representative and point of contact for Domtar Paper Company, LLC's ("Domtar's") account for a significant period. Mr. Alley retired from Ingram Barge effective December 31, 2021.

Ingram Barge employees undergo an annual ethics code recertification, which is an online multistep process requiring digital signature, and everyone in sales certify successful participation. In addition, employees must acknowledge receipt of the company's People Policy manual and receive the Compliance and Ethics Code. That manual includes confidentiality provisions that apply to customer agreements.

The confidential nature of barge transportation agreements between carriers and customers is universally understood in the industry. Mr. Wehner agreed that while at Ingram Barge, he

believed Ingram Barge's contracts with its customers were "confidential Ingram information." Mr. Alley testified that customers would share certain operational information to enable competitive bidding, including timelines, barge capacity specifications, tow configuration, and performance requirements, but would not share pricing terms.

Domtar Agreement

Domtar is one of the largest manufacturers of paper products in the United States, and Ingram and Domtar originally executed a barge transportation agreement in 2013, which has since been amended numerous times with extensions typically in two-year increments (the "Ingram Barge Domtar Agreement"). The Ingram Barge Domtar Agreement was set to expire on December 31, 2024. It did not contain a confidentiality provision, but it was stored at Ingram Barge in a system called OnBase that was password-protected with access limited to certain people. Mr. Brown testified that Ingram views the Ingram Barge Domtar Agreement as proprietary, commercially sensitive, and confidential.

Michael Morris has been the Wood Procurement Manager at Domtar since approximately March 2024, replacing Dan Allard, who retired. Chad Robertson is a Senior Coordinator of Raw Materials and reports to Mr. Morris and served as Mr. Morris's subject matter expert on barging.

Wills Logistics

Melvin Wills, the principal and founder of Wills Logistics, worked for Ingram Barge for approximately fifteen (15) years until his employment was terminated in March 2017 because of staffing reductions. At Ingram Barge, Mr. Wills was exposed to and gained wide-ranging, non-confidential, and non-proprietary knowledge, contacts, and experience relating to the logistics and barge transportation industries. He was also responsible for, among other things, originally executing the Ingram Barge Domtar Agreement, managing boats and barges, and handling billing

for Domtar. In 2018, he established Wills Logistics, a company of about thirty (30) employees which provides transportation and logistics services to companies throughout the Nashville area and southeastern United States.

Tyler Wehner, another employee at Wills Logistics, worked at Ingram Barge from July 2019 up until his termination in April 2023. Immediately after his termination, Mr. Brown sent Mr. Wehner a letter reminding him of his confidentiality obligations under the People Policy and Compliance Code. In Mr. Brown's nearly ten (10) years at Ingram Barge, this letter was the first such letter drafted and sent by him to a departing Ingram Barge employee concerning the People Policy and Compliance Code. There were only three other instances of such a letter being sent during Mr. Brown's tenure.

In May 2023, Mr. Wehner joined Wills Logistics who later contracted with Ingram Barge to provide bulk transportation and logistics services. Mr. Wehner requested specific boilerplate agreements from three different Ingram Barge employees: John Best, Baylee Pirtle, and Thomas Kinnard. Mr. Wehner had worked under Mr. Kinnard at Ingram Barge, and Mr. Kinnard reported to Mr. Arnold. Even before Ingram Barge and Wills Logistics finalized a formal quote for their impending business arrangement, on June 12, 2023, Mr. Pirtle, a Sales Specialist at Ingram Barge, provided Mr. Wehner a copy of Ingram Barge's Loading and Transportation Agreement. Around that same time, Mr. Best sent him Ingram's standard Grain Transportation Terms. On May 1, 2023, Mr. Wehner requested from Mr. Kinnard "boilerplate" contract language so as "to set Wills Logistics up in [Ingram's] system of the credit app." Mr. Kinnard later provided him with an Ingram Barge cargo transportation agreement template, the document title of which included the words: "contract boilerplate." None of these agreements included customer-specific, negotiated pricing/commercial terms.

On May 4, 2023, Mr. Kinnard forwarded to Mr. Wehner the contact information for Griffin Lifsey of the Tennessee Valley Authority, who had previously inquired to Mr. Kinnard about proposed use of gypsum material. Mr. Brown characterized the shared information in this email relating to the proposed use of gypsum material as “commercial,” which “perhaps [Ingram Barge] would like to have held closer.”

On May 9, 2023, Mr. Kinnard forwarded to Mr. Wehner the contact information for Jason Vukas, Vice President of Sales and Marketing at U.S. Minerals, Inc. On May 10, 2023, Mr. Kinnard forwarded to Mr. Wehner the contact information for David Purcell, a Category Manager at CertainTeed Gypsum in Mississauga, Ontario, whose contact number Mr. Wehner had lost when he was terminated. Ingram Barge provides such form agreements and boilerplate language to many of its other contractual counterparties and business partners.

Wills Logistics’ and Domtar’s Relationship

In late 2023, Wills Logistics retained an independent consulting firm, SEA Marketing Solutions (“SEA”), founded and owned by Mr. Alley, to explore additional barge transportation business opportunities and partnerships. In November 2023, SEA presented Wills Logistics with an opportunity to bid on Domtar’s business, and thereafter facilitated an introduction between Wills Logistics and a representative from Domtar, Mr. Allard.

At that point, Domtar was bound by the Ingram Barge Domtar Agreement, which was set to expire in December 2024. During March and April 2024, representatives at Ingram Barge and Domtar began contract negotiations for the renewal of the agreement in anticipation of the upcoming expiration. Domtar’s Michael Morris and Chad Robertson met with Ingram’s Charles Arnold in Nashville to propose “roll[ing] over” the agreement with no rate increases. Ingram Barge agreed to the “roll over,” keeping the contractual rates the same as for the proposed subsequent

contract beginning in 2025. However, for several months, negotiations regarding the renewal stalled.

On or about December 5, 2023, Mr. Wills and Mr. Alley attended a meeting with Domtar (the “Domtar Meeting”). The Domtar Meeting was a business introduction for Mr. Wills to present to the Domtar team Wills Logistics’ background, capabilities, and history. Previously, on November 14, 2023, Mr. Alley spoke with Domtar’s Mr. Allard, who indicated that the agreement with Ingram was expiring at the end of 2024. Around that time, Mr. Allard had informed Mr. Alley that Ingram Barge was moving approximately 800,000 net tons of wood chips between ports each year.

Prior to the Domtar Meeting, Domtar had shared its own business data and operational information with Mr. Wills, including tonnage, number of tows, number of barges en route, and information about docking locations and barge handling. Domtar had also shared its operational information to Mr. Alley, including the amount of free time hours on each dedicated tow, port-cost information, tonnages, docking-location cost information, and the fuel base rate. Mr. Alley had also known Domtar’s base rates and tonnages from his “being on the board of both the Tenn-Tom and the Waterway Transportation Advisory Board to the Governor of Kentucky.”

During the Domtar Meeting, Domtar expressed concerns about its business relationship with Ingram Barge, including Ingram’s “transactional” billing practices and persistent barge quality issues. Mr. Alley testified that current contract terms including expiration of the contract, the Tenn-Tom dedicated horsepower, barges and tow size, use of the port of Yellow Creek, free time hours, volume estimates, and other things were discussed at the meeting, but that no pricing terms were discussed. Specifically, he testified:

Q. Were there any pricing terms discussed?

A. No. Nope. Not that I know of.

Q. Were any of the current Ingram Barge contract terms discussed?

A. No.

Q. Okay.

A. Not that I'm aware of.

....

Q. In other words, at this meeting on December 5, 2023, Domtar was telling you and telling Wills, here's how our relationship with Ingram operates, and these are all of the volume estimates, the dedicated horsepower, and other details of the relationship. Isn't that fair?

...

A: They were telling us how their business operated. It wasn't necessarily specific to Ingram, but Ingram was the carrier at the time.

(3.4.26 Alley Depo., 47:6-12; 111:2-13). Text messages between Mr. Alley and Mr. Allard demonstrate that Mr. Allard provided him with the free time hours as well as the fuel base rate during negotiations with Wills Logistics. Ingram Barge, however, disputes that Domtar disclosed Ingram Barge's actual negotiated pricing terms, base rates, demurrage rates, fuel-protection formula, or escalator allocations, which it contends are confidential trade secret.

Using information from Domtar, Mr. Alley contributed his substantive knowledge in helping Wills Logistics draft and create its business proposal to Domtar. In an email dated December 13, 2023, Mr. Alley provided Wills Logistics with a spreadsheet he created containing Domtar's fuel rate estimates and Ohio River destinations. He noted that these were "estimates only" and what he "believed [where] the Domtar rates currently are and a history over the past five years." The spreadsheet showed base rates by origin and destination with percentage bumps over each year. Wills Logistics used the fuel estimates that Mr. Alley provided as a "barometer" to inform its proposed numbers to Domtar.

On January 5, 2024, Mr. Kinnard sent Mr. Wehner an email containing the Ingram Barge Domtar Agreement via a download link that would expire on February 4, 2024. It is disputed whether Mr. Wehner specifically asked for the Ingram Barge Domtar Agreement or simply asked him for standard boilerplate contract language. Soon after receiving the agreement, Mr. Wehner texted Mr. Wills, “I have the Domtar contracts for the last years. Last 10 years[.]” In response, Mr. Wills sent a thumbs up emoji and wrote in part “goodness.” Mr. Wehner later texted Mr. Wills, “It’s going to take me a few days to write the contract but will need help there. Mel, does Cameron have time to help with that? Need to take the Ingram/current contract and basically type the entire thing.” Neither Mr. Wehner nor Mr. Wills notified Ingram Barge that the agreement had been received, attempted to return it, or delete it.

Mr. Wills sent the first proposal to Domtar on January 14, 2024, which included an annual pricing model. Mr. Morris testified it was difficult to compare this proposal with Domtar’s current contract with Ingram and requested a per-trip proposal matching the Ingram contract format. On February 14, 2024, Mr. Wills sent two proposals to Domtar which included the per trip proposal as requested and the modified annual pricing proposal. Between January 14, 2024 and September 2024, Mr. Wills and representatives at Domtar corresponded multiple times regarding rate structure and other proposed contract terms, modifying the proposal accordingly. Between September 5 and 6, 2024, Mr. Alley corresponded with Mr. Robertson at Domtar regarding Ingram Barge’s operational capacities, including the amount of tons Ingram Barge’s barges were averaging, what cubic capacity of hulls would be of greater benefit to Domtar, and whether and how fast Ingram was doing standby loading and unloading, and free time. Mr. Alley proceeded to pass on this information to Wills Logistics. In preparation for a September 17, 2024 meeting between Wills Logistics and Domtar, Mr. Alley prepared a proposal with terms including the

length of the proposed contract between Domtar and Wills Logistics, the volume of wood chips, barge supply, dedicated service, demurrage, and hourly free time.

Wills Logistics' proposal to Domtar used the exact same escalator percentage allocations as the Ingram Barge Domtar Agreement. Mr. Morris never told Wills Logistics Ingram Barge's escalator allocation. The specific split of escalator percentages (how much of the base rate is allocated to each index) was "something that was negotiated" between the carrier and the customer, not a standard or publicly available figure. On every major pricing term—base rates on high-volume tows, demurrage rates, fuel protection multiplier, and escalator index base values—the proposal was systematically just under the corresponding Ingram Barge figure. The proposal was higher than Ingram Barge on the single-barge moves that Domtar intended to use the least. The Wills Parties dispute that the pricing in their proposal was derived from the Ingram Barge Domtar Agreement, but rather from a cost-plus methodology using pricing obtained from independent vendors, plus a margin of approximately 12%.

On or about September 29, 2024, Domtar advised Ingram Barge that it would not renew their agreement after December 31, 2024, which prompted Ingram Barge to conduct an internal review. As part of its internal investigation, Ingram Barge discovered an unauthorized access to the Ingram Barge Domtar Agreement by an Ingram employee, and Mr. Kinnard was later terminated from Ingram Barge as a result of the unauthorized access.

In October 2024, Domtar sent a notice of intent to award its business to Wills Logistics. The notice provided that it "does NOT constitute the formation of a contract" and that the "award decision is conditional upon final approval of Domtar and the successful negotiation of a contract." A final agreement was never executed.

Ingram Barge's Lawsuit

On December 2, 2024, Ingram Barge filed suit against Wills Logistics, Melvin Wills, and Tyler Wehner (the "Initial Complaint"), alleging three counts: (1) intentional interference with its business relationship with Domtar; (2) violation of the Tennessee Uniform Trade Secrets Act; and (3) civil conspiracy. Ingram Barge sought \$60 million in damages. The Initial Complaint alleged in relevant part:

71. Mr. Wehner and Wills Logistics, with the knowledge of the terms of the Domtar Agreement, made unsolicited contact with Domtar Paper Company and provided a "dark horse" proposal for its barge transportation needs, considering that Wills does not own or operate the boats or barges necessary to service Domtar's needs, and, upon information and belief, Wills has not ever successfully secured such a significant bargaining agreement with any other customer prior to Domtar.

72. That proposal was informed by and leveraged the terms of the Domtar Agreement to make what Wills Logistics considered a more attractive offer to Domtar Paper Company.

On the same day as the Initial Complaint was filed, and after summons had been issued but service had not been accomplished, Mr. Arnold of Ingram Barge sent a copy to Mr. Morris of Domtar. In early December 2024, after the Initial Complaint was filed, Mr. Arnold sent a copy to the *River Transport News* with the intention of "want[ing] the industry to be aware" of the allegations in the Initial Complaint. Mr. Brown admitted that the filing of the Initial Complaint "was about punishing bad actors in the marketplace and trying to prevent this kind of conduct from occurring in the future." Mr. Arnold also sent the Initial Complaint to Koch Industries because he was concerned whether they had business with the Wills Parties.

Mr. Morris contacted Mr. Wills and asked about the Initial Complaint and whether he had received the Ingram Barge Domtar Agreement prior to sending the proposal, which he acknowledged. Mr. Morris testified that this was enough for him to terminate negotiations, and he informed his direct supervisor and Domtar legal of his conversation with Mr. Wills. In early

December 2024, Mr. Morris indicated to Mr. Wills that Domtar would remain with Ingram and would not move forward with Wills Logistics. Domtar decided not to pursue a contract with Wills Logistics because of the access to the Ingram Barge Domtar Agreement. On or around December 4, 2024, Ingram regained Domtar's business contract, extending the prior contract through December 31, 2027. Throughout the timeline of the events in question, there was no interruption in Ingram Barge's performance of its contractual obligations with Domtar.

On January 2, 2025, Ingram Barge voluntarily dismissed its lawsuit.

LEGAL ANALYSIS

Summary Judgment

"Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Tenn. R. Civ. P. 56.04; *Rye v. Women's Care Center of Memphis, M PLLC*, 477 S.W.3d 235, 250 (Tenn. 2015). In determining if summary judgment is appropriate, courts must decide "(1) whether a *factual* dispute exists; (2) whether that fact is *material* to the outcome of the case; and (3) whether the disputed fact creates a *genuine* issue for trial." *Byrd v. Hall*, 847 S.W.2d 208, 214 (Tenn. 1993) (emphasis in original). A "material fact" is one that "must be decided in order to resolve the substantive claim or defense at which the motion is directed." *Id.* at 215. Irrelevant or unnecessary facts are not material. *Rye*, 477 S.W.3d at 251. A "genuine issue" exists when "a reasonable jury could return a verdict in the nonmoving party's favor." *Byrd*, 847 S.W.2d at 215. In deciding a motion for summary judgment, the court must not weigh the evidence, but must "take the strongest legitimate view of the evidence in favor of the nonmoving party" and overrule the when there is a genuine dispute as to any material fact. *Id.* at 210-211.

When the party moving for summary judgment bears the burden of proof at trial, that party must produce evidence that, if uncontroverted at trial, would entitle the moving party to a directed verdict. *TWB Architects*, 578 S.W.3d at 888 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 331 (1986) (Brennan, J., dissenting)). When the moving party does not bear the burden of proof at trial, that party must either (i) affirmatively negate an essential element of the non-moving party's claim, or (ii) show that the non-moving party's evidence at the summary judgment stage is insufficient to establish the non-moving party's claim. *Rye*, 477 S.W.3d at 264. In either case where the moving party has made the initial showing, the burden of production then shifts to the nonmoving party to produce evidence to show that there is a genuine issue for trial. *TWB Architects*, 578 S.W.3d at 888. If there is a genuine dispute regarding a material fact, summary judgment should be denied. Even where it appears the parties do not dispute the material facts, if they disagree about the inferences and conclusions to be drawn from those facts, summary judgment is precluded. See *CAO Holdings, Inc. v. Trost*, 333 S.W.3d 73, 83, 87 (Tenn. 2010); *Price v. Mercury Supply Co.*, 682 S.W.2d 924, 929 (Tenn. Ct. App. 1984).

Wills Logistics' Claims

Common Law Tortious Interference with Prospective Business Relationships

Both Wills Logistics and Ingram Barge seek summary judgment on this claim. Wills Logistics alleges that Ingram Barge tortuously interfered with its business relationship with Domtar by filing a frivolous lawsuit and disseminating false allegations to other entities in the barge industry.

The elements of a claim for interference with a prospective business relationship are (1) an existing or prospective business relationship with an identifiable third party; (2) the defendant's knowledge of that relationship; (3) the defendant's intent to cause the breach or termination of the

business relationship; (4) the defendant's improper motive or improper means; and finally, (5) damages resulting from the tortious interference.” *Trau-Med of Am., Inc. v. Allstate Ins. Co.*, 71 S.W.3d 691, 701 (Tenn. 2002).

The *Trau-Med* court provided guidance on how to recognize “improper motive” or “improper means.” Determining whether a defendant acted “improperly” or possessed an “improper” motive depends upon the facts and circumstances of the case. *Trau-Med*, 71 S.W.3d at 701, n.5. As to improper motive, a plaintiff must demonstrate that the predominant purpose was to injure the plaintiff. *Id.* (citing *Leigh Furniture & Carpet Co. v. Isom*, 657 P.2d 293, 307-08 (Utah 1982)). Examples of improper interference include those means that are illegal or independently tortious, such as violations of statutes, regulations, or recognized common-law rules, violence, threats or intimidation, bribery, unfounded litigation, fraud, misrepresentation or deceit, defamation, duress, undue influence, misuse of inside or confidential information, or breach of a fiduciary relationship, and those methods that violate an established standard of a trade or profession, or otherwise involve unethical conduct, such as sharp dealing, overreaching, or unfair competition. *Id.* (citations omitted).

Ingram Barge contends that Domtar's decision to terminate negotiations with Wills Logistics was based on Wills Logistics' own conduct, not the lawsuit. Specifically, that Mr. Morris testified that admission was sufficient, standing alone, to terminate the negotiations. Further, that there was no improper means or motive to support the claim and that Wills Logistics cannot demonstrate any damages. In response, Wills Logistics points to the filing of the Initial Complaint, Mr. Brown's testimony that the lawsuit was to punish bad actors, and Mr. Arnold's post-filing conduct in which he sent the Initial Complaint to Mr. Morris, the *River Transport News*, and Koch Industries and testified that he wanted Domtar and the industry to be aware of the allegations

therein and was concerned about whether Koch Industries had potential business with Wills Logistics. Further, that Wills Logistics has suffered damages in the amount of \$500,000 in anticipation of its contract with Domtar, including off-chartering barges, getting barges cleaned, towing them to original locations, and preparing systems and employees.

Taking the strongest legitimate view of the evidence in favor of the nonmoving party, the Court finds there are disputed issues of material fact that prevent summary judgment on this claim, including whether Ingram Barge acted with improper motive or improper means.

Abuse of Process

Wills Logistics and Ingram Barge seek summary judgment on this claim. Wills Logistics alleges that Ingram Barge abused the judicial system in interfering with Wills Logistics' relationship with Domtar. Wills Logistics relies on Mr. Brown's testimony in which the lawsuit was filed to "punish[] bad actors in the marketplace and . . . prevent this kind of conduct from occurring in the future." Further, that after it filed the Initial Complaint, Mr. Arnold sent a copy to Mr. Morris, the *River Transport News*, and Koch Industries.

Under Tennessee law, a plaintiff must establish the following elements to recover for abuse of process: "(1) the existence of an ulterior motive; and (2) an act in the use of process other than such as would be proper in the regular prosecution of the charge." *Givens v. Mullikin ex rel. Est. of McElwaney*, 75 S.W.3d 383, 400-401 (Tenn. 2002) (quoting *Priest v. Union Agency*, 125 S.W.2d 142, 143 (Tenn. 1939); see also *Donaldson v. Donaldson*, 557 S.W.2d 60, 62 (Tenn. 1977)). Notably, "the mere filing of a motion or document by a party is not automatically considered process within the context of a claim for abuse of process," *Blalock v. Preston Law Grp., P.C.*, No. M2011-00351-COA-R3-CV, 2012 WL 4503187, at *4 (Tenn. Ct. App. Sept. 28, 2012), and a plaintiff must show *an additional abuse of process* after the original processes of the

court, *Givens*, 75 S.W.3d at 403. In fact, the “gist of the [abuse of process] tort is not commencing an action or causing process to issue without justification, but misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish.” *Bell ex rel. Snyder*, 986 S.W.2d at 555 (quoting W. Page Keeton et al., *Prosser and Keeton on the Law of Torts* § 121, at 897 (5th ed. 1984)). The Tennessee Supreme Court in *Givens* further elaborated:

The test as to whether process has been abused is “whether the process has been used to accomplish some end which is without the regular purview of the process, or which compels the party against whom it is used to do some collateral thing which he could not legally and regularly be compelled to do.” *Priest*, 174 Tenn. at 307, 125 S.W.2d at 143–44. In its most basic sense, therefore, an action for abuse of process is intended to prevent parties from using litigation to pursue objectives other than those claimed in the suit, such as using a court’s process as a weapon “to compel [another party] to pay a different debt or to take some action or refrain from it.” Restatement (Second) of Torts § 682 cmt. b (1977). It is the use of process to obtain this “collateral goal”—a result that the process itself was not intended to obtain—that is the very heart of this tort. The essential question to be answered concerning the present claim, therefore, is whether the use of process to discourage the other party from continuing the litigation is a sufficiently “collateral goal” to give rise to tort liability.

Ordinarily, the lawful use of a court’s process does not give rise to an abuse of process claim, and no claim of abuse will be heard if process is used for its lawful purpose, even though it is accompanied with an incidental spiteful motive or awareness that the use of process will result in increased burdens and expenses to the other party. *Id.* However, a different case is presented when the primary purpose of using the court’s process is for spite or other ulterior motive.

Givens, 75 S.W.3d at 401.

Tennessee caselaw has further established “[i]f the action is confined to its regular and legitimate function in relation to the cause of action stated in the complaint[,] there is no abuse, even if the plaintiff had an ulterior motive in bringing the action.” *Montpelier v. Moncier*, No. E2016-00246-COA-R3-CV, 2017 WL 2378301, at *6 (Tenn. Ct. App. June 1, 2017) (citations omitted). Abuse of process “provides a remedy for a claim arising when a legal procedure, although set in motion in proper form, has been perverted to accomplish an ulterior or wrongful

purpose for which it was not designed.” *Id.* (citing *Labonte v. National Grange Mut. Ins. Co.*, 810 A.2d 250, 254 (R.I. 2002)). Caselaw is clear that the “[m]ere initiation of a lawsuit, though accompanied by a malicious ulterior motive, is not abuse of process” where the “process was employed to perform no other function than that intended by law.” *Bell ex rel. Snyder*, 986 S.W.2d at 555; *see also Priest*, 125 S.W.2d at 143 (quoting treatise for the proposition that “[r]egular and legitimate use of process, though with a bad intention, is not a malicious abuse of process.”).

Wills Logistics contends Ingram Barge tried to punish it by prosecuting the Initial Complaint that sought damages in excess of \$60 million and points to Mr. Brown’s testimony that it was filed to punish Wills Logistics. Further, that Ingram Barge perverted the process to obtain a result which the process was not intended by law to effect by affirmatively disseminating the Initial Complaint to Domtar, *River Transport News*, and Koch Industries in order to disrupt Wills Logistics’ business relationships. While the mere initiation of a lawsuit that is accompanied by a malicious ulterior motive is not abuse of process, the Court is required to take the strongest legitimate view of the evidence in favor of the nonmoving party, and, as such, the Court finds there are disputed issues of material fact that prevent summary judgment on this claim.

Ingram Barge’s Counterclaims

Misappropriation of Trade Secrets

Ingram Barge and the Wills Parties seek summary judgment on this claim. Ingram Barge alleges that the Wills Parties violated the Tennessee Uniform Trade Secrets Act (the “TUTSA”), codified at Tennessee Code Annotated § 47-25-1701, *et seq.*, by utilizing the negotiated prices in the Ingram Barge Domtar Agreement; specifically, the base rates by route and tow size, demurrage rates, the fuel-protection formula, and the escalator allocation, index bases, and adjustment timing. Ingram Barge contends that the Wills Logistics’ proposal to Domtar mirrored the escalator

allocations and used rates that were just slightly under Ingram Barge's rates on multiple line items. In response, the Wills Parties contend that this information was widely known and was independently obtained; further, that even if it were considered trade secrets, the Wills Parties did not utilize the information and Ingram Barge has not demonstrated damages as a result.

The TUTSA provides that a plaintiff may obtain injunctive relief and/or an award of damages for "misappropriation" of a "trade secret" as those terms are defined in the Act. *See* Tenn. Code Ann. § 47-25-1702(2), (4). Trade secret is defined as "information, without regard to form, including, but not limited to, technical, nontechnical or financial data . . . that [d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use." Tenn. Code Ann. § 47-25-1702(4). In addition, the business need only show "reasonable" efforts to maintain the secrecy of the information. *Id.* Tennessee courts have interpreted this language to cover both what common law would consider a "trade secret" and what would commonly be known as simply "confidential information." *Hamilton-Ryker Grp., LLC v. Keymon*, No. W2008-936-COA-R3-CV, 2010 WL 323057, at *13 (Tenn. Ct. App. Jan. 28, 2010).

The TUTSA has multiple definitions of the term misappropriation and Ingram Barge relies on the following:

(A) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(B) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(ii) At the time of disclosure or use, knew or had reason to know that that person's knowledge of the trade secret was:

(b) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

Tenn. Code Ann. § 47-25-1702(2)(A) and (B)(ii)(b). The TUTSA lists three requirements for information to be considered a trade secret: “(1) the information must derive independent economic value from not being generally known, (2) others could obtain economic value from its disclosure or use, and (3) efforts have been made to maintain its secrecy.” *Wachter, Inc. v. Cabling Innovations, LLC*, 387 F. Supp.3d 830, 845 (M.D. Tenn. 2019).

Ingram Barge seeks summary judgment on this claim, relying on the assumption that the Wills Parties had to have used the confidential rates and percentages from the Ingram Barge Domtar Agreement because the rates in the Wills Logistics’ proposal were slightly under those in the agreement and did not track Mr. Alley’s estimates in his spreadsheet. Given this coincidence, and that Mr. Wehner happened to receive the specific Ingram Barge Domtar Agreement from Mr. Kinnard prior to submitting the proposal, Ingram Barge argues that no reasonable finder of fact could find that they did not use the agreement. Further, that there was independent economic value from these rates, that the escalator allocation was negotiated and not public information, and that Ingram Barge took reasonable efforts to keep it confidential through its compliance code, annual ethics certification, restricted system access, and post-employment reminders. However, the Court cannot ignore the testimony that Mr. Wehner asked for boilerplate language instead of the specific Ingram Barge Domtar Agreement or that Mr. Wills and Mr. Wehner denied using the information in the agreement.

Accordingly, the Court finds there are genuine issues of material fact that prevent summary judgment on this claim, including whether the information is considered a trade secret, whether the information was misappropriated, and whether the information was readily ascertainable and reasonably protected.

Civil Conspiracy

During oral argument, Ingram Barge conceded that it would withdraw this claim. Accordingly, the Court dismisses Ingram Barge's claim for civil conspiracy.

Conclusion

Based on the foregoing, it is ORDERED, ADJUDGED and DECREED that Ingram Barge's Motion for Summary Judgment is DENIED.

It is further ORDERED, ADJUDGED and DECREED that Wills Logistics' Motion for Summary Judgment is DENIED.

It is further ORDERED, ADJUDGED and DECREED that the Wills Parties' Amended Motion for Summary Judgment is GRANTED in part and DENIED in part, and Ingram Barge's claim for civil conspiracy is hereby DISMISSED.

It is so ORDERED.



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