

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SILVER FERN CHEMICAL, INC., a
Washington corporation,

Plaintiff,

v.

SCOTT LYONS, an individual; TROY KINTO,
an individual; KING HOLMES, an individual;
ROWLAND MORGAN, an individual; and
AMBYTH CHEMICAL COMPANY, a
Washington corporation,

Defendants.

CASE No. 2:23-cv-00775-TL

ORDER ON RENEWED
MOTION FOR JUDGMENT AS
A MATTER OF LAW

SCOTT LYONS, an individual, TROY KINTO,
an individual, and KING HOLMES, an
individual,

Counterclaim Plaintiffs,

v.

SILVER FERN CHEMICAL, INC., a
Washington corporation, SAM KING, an
individual, and LISA KING, an individual,

Counterclaim Defendants.

This matter is before the Court on a Renewed Motion for Judgment as a Matter of Law brought by Defendants Scott Lyons, Troy Kinto, King Holmes, Rowland Morgan, and Ambyth Chemical Company (collectively, “Defendants”). Dkt. No. 321. Having reviewed Defendants’ motion, Plaintiff Silver Fern Chemical Incorporated’s (“Plaintiff”) response (Dkt. No. 343), Defendants’ reply (Dkt. No. 352), and the relevant record, the Court DENIES Defendants’ motion.

I. BACKGROUND

A jury trial was held on this matter beginning on December 1, 2025. Dkt. No. 275. Plaintiff presented its case to the jury and, when it rested, Defendants moved orally for judgment as a matter of law under Federal Rule of Civil Procedure 50(a). Dkt. No. 290. The Court granted Defendants' motion in part and dismissed Count 3, Breach of Duty of Loyalty and Confidentiality, against Defendants Lyons, Kinto, and Holmes. *Id.* Next, Defendants presented their defense and, on December 12, 2025, all Parties rested. Dkt. No. 294. On December 18, 2025, the jury reached a unanimous verdict, finding, in relevant part, that: (1) Plaintiff had established by a preponderance of the evidence that all Defendants misappropriated Plaintiff's trade secret under the Washington Uniform Trade Secrets Act ("WUTSA") and federal Defend Trade Secrets Act ("DTSA") (*see* Dkt. No. 316 (Redacted Jury Verdict) at 2–5); (2) Plaintiff had established by a preponderance of the evidence that Defendants Lyons, Kinto, and Holmes were liable for breach of contract against Plaintiff (*id.* at 7); (3) Plaintiff had not established by a preponderance of the evidence that Defendants committed tortious interference with business expectancy (*id.* at 9); and (4) Plaintiff had not established by a preponderance of the evidence that Defendants Morgan and Ambyth had committed tortious interference with business relationships and contracts (*id.* at 10). The jury awarded Plaintiff \$1,916,137.00 in damages for the misappropriation-of-trade-secrets claims. *Id.* at 6. While the jury also found Defendants Lyons, Kinto, and Holmes had breached their respective confidentiality agreements, they awarded no additional damages for this violation. *Id.* at 8.

On January 22, 2026, Defendants moved for judgment as a matter of law under Rule 50(b). Dkt. No. 321. The instant matter is fully briefed and ripe for the Court's review.

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II. LEGAL STANDARD

A. Federal Rule of Civil Procedure 50(b)

“Under Rule 50, a court should render judgment as a matter of law when ‘a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue.’” *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 149 (2000) (quoting Fed. R. Civ. P. 50(a)). The Rule 50 standard is “very high.” *Costa v. Desert Palace, Inc.*, 299 F.3d 838, 859 (9th Cir. 2002). The jury’s verdict “must be upheld if it is supported by substantial evidence.” *Johnson v. Paradise Valley Unified Sch. Dist.*, 251 F.3d 1222, 1227 (9th Cir. 2001). “Substantial evidence is evidence adequate to support the jury’s conclusion, even if it is also possible to draw a contrary conclusion from the same evidence.” *Id.* In conducting its analysis, “the court should review all of the evidence in the record, . . . draw[ing] all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence.” *Reeves*, 530 U.S. at 150; *see also Lakeside-Scott v. Multnomah County*, 556 F.3d 797, 802–03 (9th Cir. 2009) (noting that judgment as a matter of law “is appropriate when the jury could have relied only on speculation to reach its verdict”). A court may only grant judgment as a matter of law “if the evidence, construed in the light most favorable to the nonmoving party, permits only one reasonable conclusion, and that conclusion is contrary to the jury’s verdict.” *A.D. v. Cal. Highway Patrol*, 712 F.3d 446, 453 (9th Cir. 2013) (citation omitted).

“Because it is a renewed motion, a proper post-verdict Rule 50(b) motion is limited to the grounds asserted in the pre-deliberation Rule 50(a) motion.” *E.E.O.C. v. Go Daddy Software, Inc.*, 581 F.3d 951, 961 (9th Cir. 2009); *see also* Fed. R. Civ. P. 50(b). “Thus, a party cannot properly ‘raise arguments in its post-trial motion for judgment as a matter of law under Rule

50(b) that it did not raise in its preverdict Rule 50(a) motion.” *Id.* (quoting *Freund v. Nycomed Amersham*, 347 F.3d 752, 761 (9th Cir. 2003)).

B. Federal Rule of Civil Procedure 59(a)

Under Federal Rule of Civil Procedure 59(a)(1)(A), a court may, on motion, grant a new trial “after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court[.]” Rule 59 does not specify the grounds on which a motion for a new trial may be granted, and courts are “bound by those grounds that have been historically recognized.” *Zhang v. Am. Gem Seafoods, Inc.*, 339 F.3d 1020, 1035 (9th Cir. 2003).

“Historically recognized grounds include, but are not limited to, claims ‘that the verdict is against the weight of the evidence, that the damages are excessive, or that, for other reasons, the trial was not fair to the party moving.’” *Molski v. M.J. Cable, Inc.*, 481 F.3d 724, 729 (9th Cir. 2007) (quoting *Montgomery Ward & Co. v. Duncan*, 311 U.S. 243, 251 (1940)). A “trial court may grant a new trial only if the verdict is contrary to the clear weight of the evidence, is based upon false or perjurious evidence, or to prevent a miscarriage of justice.” *Id.* (citation omitted). “The grant of a new trial is ‘confided almost entirely to the exercise of discretion on the part of the trial court.’” *Murphy v. City of Long Beach*, 914 F.2d 183, 186 (9th Cir. 1990) (quoting *Allied Chem. Corp. v. Daiiflon, Inc.*, 449 U.S. 33, 36 (1980)).

III. DISCUSSION

A. The Defend Trade Secrets Act and Washington Uniform Trade Secrets Act

Claims for misappropriation of trade secrets under the DTSA and the WUTSA are “substantially similar.” *NW Monitoring LLC v. Hollander*, 534 F. Supp. 3d 1329, 1336 (W.D. Wash. 2021). Under the DTSA, “the definition of trade secret consists of three elements: (1) information, (2) that is valuable because it is unknown to others, and (3) that the owner has attempted to keep secret.” *InteliClear, LLC v. ETC Glob. Holdings, Inc.*, 978 F.3d 653, 657 (9th

1 Cir. 2020) (citing 18 U.S.C. § 1839(3), (5)). The WUTSA defines a trade secret as

2 information . . . that derives independent economic value, actual or
3 potential, from not being generally known to, and not being readily
4 ascertainable by proper means by other persons who can obtain
5 economic value from its own disclosure or use and is a subject of
6 efforts that are reasonable under the circumstances to maintain its
7 secrecy.

8 *Promedev, LLC v. Wilson*, No. C22-1063, 2023 WL 2330377, at *4 (W.D. Wash. Mar. 2, 2023)

9 (quoting RCW 19.108.010(4)(a)–(b)) (citation modified). In a trade-secret claim, a plaintiff must

10 prove: “(1) that the plaintiff possessed a trade secret, (2) that the defendant misappropriated the

11 trade secret; and (3) that the misappropriation caused or threatened damage to the plaintiff.”

12 *InteliClear, LLC*, 978 F.3d at 657–58 (citing 18 U.S.C. § 1839(5)); *see also Traverse Therapy*

13 *Servs., PLLC v. Sadler-Bridges Wellness Grp., PLLC*, No. C23-1239, 2024 WL 381180, at *3

14 (W.D. Wash. Feb. 1, 2024) (finding that the elements of the DTSA and WUTSA are

15 “substantially similar”). “[A] plaintiff seeking relief for trade secret misappropriation must

16 identify the trade secret ‘with sufficient particularity to permit the defendant to ascertain at least

17 the boundaries within which the secret lies.’” *Bombardier Inc. v. Mitsubishi Aircraft Corp.*, 383

18 F. Supp. 3d 1169, 1178 (W.D. Wash. 2019) (quoting *SMS Signature Cars v. Connects Mktg.*

19 *LLC*, No. C12-1300, 2012 WL 12893935, at *2 (C.D. Cal. Oct. 29, 2012)) (citation modified).

20 **1. Plaintiff Possessed a Trade Secret**

21 **a. Information**

22 Defendants argue that Plaintiff did not “clearly refer to tangible trade secret material

23 instead of referring to a system which potentially qualifies for trade secret protection” and

24 needed to refer to tangible trade secret material, not reference a large swath of documents. Dkt.

No. 321 at 16–17 (quoting *InteliClear, LLC*, 978 F.3d at 658). Defendants assert that because

Plaintiff “did not specify any particular list or claimed trade secret compilation,” Plaintiff’s

1 reference to the client list is inadequate to prove a trade secret. *Id.* at 16 (citing *IneliClear, LLC*,
2 978 F.3d at 658). But in the context of explaining what a plaintiff needs to provide in describing
3 a trade secret, the court in *IneliClear, LLC*, also held that “[t]he plaintiff ‘should describe the
4 subject matter of the trade secret with *sufficient particularity* to separate it from matters of
5 general knowledge in the trade.’” *Id.* (quoting *Imax Corp. v. Cinema Techs., Inc.*, 152 F.3d 1161,
6 1164 (9th Cir. 1998)). Further, Plaintiff was not required to point to one singular list or
7 document, because “[t]he Washington Uniform Trade Secrets Act defines a ‘trade secret’ to
8 include compilations of information which have characteristics *without regard to the form* such
9 information might take,” and “do[es] not imply the requirement of written documents.” *Ed*
10 *Nowogroski Ins., Inc. v. Rucker*, 137 Wn.2d 427, 445, 971 P.2d 936 (1999) (emphasis added).

11 Throughout this case and at trial, Plaintiff asserted it had one trade secret—its
12 confidential compilation of customer information. Dkt. No. 343 at 8. This compilation of
13 information “consisted of customer names, customer contact information, customer product
14 requirements, and vendors who meet customer product requirements.” *Id.* At trial, Sam King,
15 Plaintiff’s co-founder and co-owner, testified in detail about this compilation of information that
16 was contained within Plaintiff’s private and password protected Chempax and eChempax
17 systems (Dkt. No. 344-5 (S. King Trial Transcript Dec. 8, 2025) at 14–15 (50:10–51:16)) and
18 consisted of inventory deal sheets (*id.* at 15 (51:17–23)), transaction deal sheets (*id.* at 15–17
19 (51:24–53:3)), customer folders (*id.* at 17 (53:4–10)), and vendor folders (*id.* at 15 (53:11–15)).
20 For example, Sam King testified that eChempax contained confidential information, such as
21 sales history, orders, pricing, and costs. *Id.* at 15 (51:12–16)). More specifically, Sam King
22 testified that the transaction deal sheets are “basically a budget of what the order looked like,”
23 and that “it would have what the product is, the grade, the quantity, where it needed to be
24 delivered to,” and “where we bought [the product] from,” and “who the supplier is, and what the

1 cost was.” *Id.* at 16 (52:1–12). And if “product was one of the inventory products,” the deal sheet
2 would tell the reader “what warehouse would it come out of, and what [was] our current
3 inventory cost on that[.]” *Id.* (52:13–16).

4 The facts here are similar to those in *Earthbound Corp. v. MiTek USA Inc.*, No. C16-
5 7223, 2017 WL 2919101 (C.D. Cal 2017), where the court found that a compilation of
6 information located in a secure drive constituted a trade secret under the WUTSA. *Id.* at *12.
7 The compilation in *Earthbound Corp.* consisted of “customer names, contact information, price
8 lists, and their requirements and preferences; negotiated supplier and vendor costs; . . . job files;
9 prior, current, and pending bids, estimates, and project lists; technical project data; [and]
10 revenue, costs, and profit margins” *Id.* at *2. Similar to Plaintiff’s security measures
11 regarding the compilation at issue here (*see* Dkt. No. 344-5 at 17–18 (53:16–54:13)), the plaintiff
12 in *Earthbound* required user credentials and a password to access such information. *See*
13 *Earthbound Corp.*, 2017 WL 2919101, at *2.

14 Sam King did not just say that trade secrets existed in certain internal systems and stop
15 there. Instead, he identified where the trade secret was located in Plaintiff’s system—such as
16 Chempax, and eChempax, as well as what the trade secrets were—deal sheets, customers folders,
17 and vendor folders, and identified aspects of these systems with enough specificity for the jury to
18 conclude Plaintiff identified its customer compilation as a trade secret.

19 Therefore, looking at the evidence in light most favorable to Plaintiff, the jury’s finding
20 that Plaintiff proved the “information” prong of the trade-secret definition is supported by
21 substantial evidence.

22 **b. Valuable Because It Was Unknown to Others**

23 Defendants argue that Plaintiff did not prove that the information in Plaintiff’s
24 compilation was valuable, because most of the customers’ identities were known to competitors.

1 See Dkt. No. 321 at 18. But this argument completely misses the mark. Plaintiff argued that it
2 was the *compilation* of customer information—which included “customer names, customer
3 contact information, customer product requirements, and vendors who meet customer product
4 requirements”—that formed the trade secret, not the just *identities* of the customers. Dkt.
5 No. 343 at 8.

6 It has long been recognized that “[c]ustomer identities and related customer information
7 can be a company’s most valuable asset and may represent a considerable investment of
8 resources.” *Nowogroski Ins., Inc.*, 137 Wn. 2d at 443 (quoting Restatement (Third) of Unfair
9 Competition § 42 cmt. f (1995)). Further, “[a] trade secrets plaintiff need not prove that every
10 element of an information compilation is unavailable elsewhere,” because “[s]uch a burden
11 would be insurmountable since trade secrets frequently contain elements that by themselves may
12 be in the public domain but together qualify as trade secrets.” *Boeing Co. v. Sierracin Corp.*, 108
13 Wn.2d 38, 50, 738 P.2d 665 (1987); *see also Earthbound Corp.*, 2017 WL 2919101, at *12
14 (finding that although some of the information in plaintiff’s trade secret, such as customer names
15 and contact information, was public, that did not negate the compilation’s trade-secret status)
16 (citing *United States v. Nosal*, 844 F.3d 1024, 1042 (9th Cir. 2016), *overruled on other grounds*
17 *by United States v. Sullivan*, 159 F.4th 579 (9th Cir. 2025)).

18 The most important consideration in identifying a trade secret is “whether the information
19 is readily accessible to a reasonable diligent competitor[.]” *Hollingsworth Solderless Terminal*
20 *Co. v. Turley*, 622 F.2d 1324, 1332 (9th Cir. 1980). Where customer lists are involved,
21 “[e]vidence concerning whether a reasonably diligent salesman could perceive a narrowing
22 classification which reduces substantially the costs of identifying potential customers is thus
23 relevant to determining accessibility.” *Id.* And where a compilation of information cannot be
24 easily recreated by a competitor’s mere talking with customers, then the information necessarily

1 cannot be readily accessible to a competitor and, therefore, qualifies as a trade secret. *See*
2 *Multifab, Inc. v. Zweiger*, No. C19-6164, 2020 WL 2614736, at *4 (W.D. Wash. May 22, 2020)
3 (citation omitted).

4 In reference to the confidential information on eChempax, which contained customer
5 information such as sales history, orders, pricing, and costs (Dkt. No. 344-5 at 15 (51:12–16)),
6 Sam King asserted that it was valuable because it was essentially the “keys to the castle” and the
7 “shortcut” to how to successfully do business with Plaintiff’s customers (*see id.* at 19 (55:16–
8 23)). The evidence at trial showed that it is not just a matter of knowing the identity of the
9 customer company, but actually knowing whom to contact at the company, and how to reach
10 them, so that their delivery needs may be fulfilled—information that Sam King testified Plaintiff
11 has. *Id.* at 11 (30:14–24). Further, Sam King testified that the right person to contact at a
12 company can vary by company, that knowing who the decision maker is at that company is
13 crucial, and that simply calling an 800 number is “not going to get you very far, easily.” *Id.* at
14 11–12 (30:14–31:24). Sam King testified that only 2 to 5% of Plaintiff’s customer leads actually
15 resulted in a customer relationship. *Id.* at 4 (19:5–9). Sam King also testified that it would take
16 someone without access to Plaintiff’s confidential compilation of customer information “years
17 and years” to create the compilation from scratch. *Id.* at 19–20 (55:24–56:1–7). He testified that
18 this compilation of customer leads is valuable because it is a shortcut to customers, and that if
19 another company had it, they could go to the same supplier and offer the product to the customer
20 at a different margin. *Id.* Plaintiff also had specifics on what type of product those companies
21 would want, such as the grade they need, what quantity they need, and where and how they want
22 products delivered. *See id.* at 16 (52:1–12); *id.* at 4–5 (19:22–20:10). Plaintiff established at trial
23 that the deal sheets are important because they have “all of the information about the
24 transaction,” which shows “how [Plaintiff] make[s] the profit.” *Id.* at 16 (52:19–20).

1 Defendants' own testimony at trial confirmed that the information in Plaintiff's
2 compilation was valuable. For example, Defendant Kinto conceded that the information in deal
3 sheets are not accessible to the general public and, therefore, is not something he would want to
4 broadcast to competitors. Dkt. No. 344-3 at 11–12 (108:17–109: 11). The evidence also showed
5 that on April 16, 2023, when Defendant Holmes already knew he was leaving for Defendant
6 Ambyth, Defendant Holmes accessed a customer pricing folder on Plaintiff's internal system to
7 look at past business he had done with a customer. Dkt. No. 344-1 (K. Holmes Trial Testimony
8 Dec. 2, 2025) at 17–19 (51:5–8; 52:7–17; 53:10–18). This was a file that ultimately ended up on
9 Defendant Holmes' personal computer. *Id.* at 19 (53:13–15). The evidence also showed that after
10 Defendants Holmes, Lyons, and Kinto arrived at Defendant Ambyth, Defendant Ambyth for the
11 first time did business with several of Plaintiff's former customers. Dkt. No. 344-6 (R. Morgan
12 Trial Testimony Dec. 10, 2025) at 3 (19:8–24). This evidence leads the Court to ask, if all of this
13 customer information was general knowledge in the industry, or could easily be recreated by
14 merely talking to customers, then why would Defendant Holmes need to review it before leaving
15 Plaintiff, and why would it end up on his personal computer?

16 Next, Defendants argue that to qualify as a trade secret, Plaintiff's compilation must be
17 shown to have novelty and uniqueness, and that Plaintiff did not prove either at trial. Dkt.
18 No. 321 at 19 (citing *Seaside Inland Transp. v. Coastal Carriers LLC*, No. C17-143, 2019 WL
19 4918747, at *9 (W.D. Wash. Oct. 4, 2019)). "Although the definition of trade secret is broad, it
20 is not limitless, and the proponent must plausibly allege that the information possesses some
21 novelty in order to warrant trade secret protection." *Promedev*, 2023 WL 2330377, at *4 (citation
22 modified). Information is considered "novel" if it is not "readily ascertainable from another
23 source." *Id.* (citing *Belo Mgmt. Servs., Inc. v. ClickA Network*, 184 Wn. App. 649, 657, 343 P.3d
24 370 (2014)).

1 Defendants argue that Plaintiff did not show novelty or uniqueness because “[Plaintiff]
2 did not demonstrate that its customers were unique. There was no showing of exclusive
3 contracts, specialized products, or unknown vendors,” and “there was extensive evidence that
4 Silver Fern’s customers were known to competitors and its vendors were known in the industry.”
5 Dkt. No. 321 at 20. Defendants assert that “[Plaintiff’s] customers were a measure of its success,
6 but knowledge of them or vendors was not unique in the industry and could not be a trade
7 secret.” *Id.* at 21. These arguments again focus solely on the *identities* of customers and those
8 identities being public knowledge, rather than the entirety of Plaintiff’s customer compilation,
9 and the Court again rejects the argument for the reasons it stated above. Although the identities
10 of customers in the industry is public information, when a compilation includes multiple layers
11 of specifics that have historically led to business with customers and would, in the words of Sam
12 King, take “years and years” to put together, that is a list that is not readily available to others,
13 meaning it is novel.

14 In sum, although the identity of some of Plaintiff’s customers may have been public,
15 looking at the evidence in light most favorable to Plaintiff, the jury’s finding that Plaintiff proved
16 its compilation of customer information was unique as well as valuable because it was unknown
17 to others (and, therefore, a trade secret) is supported by substantial evidence.

18 **c. *Attempts to Keep Information Secret***

19 At trial, Sam King testified that Plaintiff’s trade secret was stored in Plaintiff’s two-
20 factor-authentication, password-protected private servers. Dkt. No. 344-5 at 17–18 (53:16–
21 54:13). As another layer of security, salespersons working for Plaintiff could only access a deal
22 sheet for the deal on which they worked, and their peers could not access each other’s eChempax
23 information. *Id.* at 18–19 (54:20–55:15). Plaintiff did this to keep the salesperson’s deal sheet
24 “separate” from and “confidential” to other salespersons. *Id.* The evidence at trial also

1 established that Plaintiff required Defendant Holmes, Defendant Lyons, and Defendant Kinto to
 2 sign confidentiality agreements. *See* Dkt. Nos. 277 (Joint Exhibit 03 (Holmes Agreement)), 278
 3 (Joint Exhibit 02 (Kinto Agreement)), 280 (Joint Exhibit 04 (Lyons Agreement)). In Defendant
 4 Holmes’s agreement, for example, confidential material meant “[s]ales plans, business plans,
 5 sales forecasts, product lists, pricing information, the identity of [Plaintiff’s] customers, the
 6 identity of suppliers, and company financial information.” Dkt. No. 344-1 (K. Holmes Trial
 7 Transcript Dec. 2, 2025) at 5 (12:9–19).

8 In their motion, Defendants do not dispute that Plaintiff password-protected servers, put
 9 barriers between individual salespersons’ deal sheets, and required Defendant Holmes,
 10 Defendant Lyons, and Defendant Kinto to sign confidentiality agreements. Instead, Defendants
 11 focus on arguments such as, the competitors knew the identities of Plaintiff’s customers (Dkt.
 12 No. 321 at 18), and that the chemical-distribution business is not a secret industry (*id.* at 20).
 13 And Defendants did not offer any evidence at trial that rebutted Plaintiff’s evidence of efforts to
 14 keep its customer compilation secret.

15 Therefore, viewing the evidence in the light most favorable to Plaintiff, the jury’s finding
 16 that Plaintiff made attempts to keep its customer compilation secret is supported by substantial
 17 evidence.

18 **2. Defendants Misappropriated Plaintiff’s Trade Secret¹**

19 Under the DTSA, misappropriation of a trade secret means “disclosure or use of a trade
 20 secret of another without express or implied consent by a person who . . . at the time of
 21 disclosure or use, knew or had reason to know that the knowledge of the trade secret
 22

23 ¹ Plaintiff argues that in their Rule 50(a) oral motion, Defendants never made an argument related to
 24 misappropriation of trade secrets. The Court finds that this argument was raised (*see* Dkt. No. 344-7 at 24–25). *See*
Go Daddy Software, 581 F.3d at 961 (“Rule 50(b) ‘may be satisfied by an ambiguous or inartfully made motion’
 under Rule 50(a).” (quoting *Reeves v. Teuscher*, 881 F.2d 1495, 1498 (9th Cir. 1989))).

1 was . . . derived from or through a person who owed a duty to the person seeking relief to
2 maintain the secrecy of the trade secret or limit the use of the trade secret” *Tori Belle*
3 *Cosmetics, LLC v. Meek*, No. C21-66, 2023 WL 3043865, at *7 (W.D. Wash. Apr. 21, 2023)
4 (quoting 18 U.S.C. § 1839(5)). The WUTSA defines misappropriation of a trade secret as
5 “disclosure or use of a trade secret of another without express or implied consent by a person
6 who . . . at the time of disclosure or use, knew or had reason to know that his or her knowledge
7 of the trade secret was . . . (B) acquired under circumstances giving rise to a duty to maintain its
8 secrecy or limit its use.” *A Place for Mom v. Perkins*, 475 F. Supp. 3d 1217, 1225 (W.D. Wash.
9 2020) (quoting RCW 19.108.010(2)(b)(ii)(B)). Misappropriation of a trade secret may be proven
10 “by circumstantial as well as direct evidence.” *UniRAM Tech., Inc., v. Taiwan Semiconductor*
11 *Mfg. Co.*, 617 F. Supp. 2d 938, 944 (N.D. Cal. 2007) (citing *Droege v. Welsh Sporting Goods*
12 *Corp.*, 541 F.2d 790, 792 (9th Cir. 1976)).

13 Defendants argue, in part, that Plaintiff could not prove misappropriation, because “many
14 [Plaintiff] customer identities were not confidential.” Dkt. No. 321 at 24. Defendants go on to
15 argue that Plaintiff relied on 18 transactions to prove misappropriation. *Id.* at 24. Among these
16 18 transactions, Defendants argue that: there is no evidence Defendants did business with two of
17 them; one of the customers was a legacy customer of Defendant Kinto’s; and that for ten of the
18 customers, trial testimony “demonstrated isolated contact,” and Plaintiff “never proved that the
19 customers in question were among the group of customers who were confidential[.]” *Id.* at 24–
20 25. As to Defendant Morgan, Defendants argue that “there was no evidence that he knew or used
21 [Plaintiff]’s claimed trade secrets in any way.” *Id.* at 24. But there are several evidentiary reasons
22 why Defendants’ arguments do not meet the burden of proving that the only reasonable
23 conclusion weighs in their favor.

1 As a preliminary matter, the Court will not repeat and incorporates in this section its
2 discussions in Sections III.A.1.b. and III.C. The evidence showed that Defendants Holmes,
3 Kinto, and Lyons all signed confidentiality agreements to work for Plaintiff. Dkt. Nos. 277 (Joint
4 Exhibit 03), 278 (Joint Exhibit 02), 280 (Joint Exhibit 04). Shortly after Defendants Lyons,
5 Kinto, and Holmes joined Defendant Ambyth, Defendant Ambyth began working with
6 customers with whom they had never done business before—customers who had previously
7 worked with Plaintiff. For example, Defendant Lyons admitted that when he began working at
8 Defendant Ambyth, he reached out to a customer with whom he had worked during his time
9 working for Plaintiff. Dkt. Nos. 344-2 at 8–9 (121:12–122:16). Defendant Lyons also emailed a
10 customer of Plaintiff’s a couple days after he began working for Defendant Ambyth. *See id.* at 7
11 (100:7–13). As for Defendant Holmes, he admitted to calling a number of Plaintiff’s customers
12 to solicit their business shortly after he moved to Defendant Ambyth, even calling one customer
13 his very first day at Defendant Ambyth. *See* Dkt. No. 344-1 at 3–4 (8:21–9:1); *see also id.* at 26
14 (80:2–81:21); 20–23 (63:16–64:20, 68:22–69:1). Even taking away the one customer that
15 Defendants argue was a legacy customer of Defendant Kinto’s, and the two customers about
16 whom they argue there was no evidence that Defendant Ambyth ever did business with, that
17 leaves 15 transactions that Defendants concede were admitted into evidence, and for which they
18 also concede there was contact with those customers. And conduct such as Defendant Holmes’s
19 accessing and downloading of customer pricing folders has been found sufficient to demonstrate
20 misappropriation of trade secrets. *See Guidance Residential, LLC v. Mangrio*, No. 75507-2-I,
21 2017 WL 6452421, at *8 (Wash. Ct. App. Dec. 18, 2017).

22 As to Defendant Morgan, the evidence showed that he knew that Defendants Lyons,
23 Kinto, and Holmes were bound by confidentiality agreements. Dkt. No. 344-6 at 12–13 (54:2–
24 55:12). Defendants rely heavily on the fact that “[u]ndisputed testimony showed that Mr.

1 Morgan did not request or receive confidential information from departing Defendants and
2 required their written agreement to refrain from using Plaintiff’s confidential information.” Dkt.
3 No. 352 at 13. But the jury’s verdict regarding Defendant Morgan individually reflects that even
4 if Defendant Morgan’s testimony on this issue was undisputed, the jurors did not accept this
5 testimony as credible as they found that not only that was he individually liable for
6 misappropriating the trade secrets (*see* Dkt. No. 316 at 2) but also that he did so willfully and
7 maliciously (*id.* at 3). The Court cannot disturb that credibility finding. *Reeves*, 530 U.S. at 150.

8 Plaintiff made clear at trial that its trade secret was its customer compilation—meaning
9 all of the confidential information it described, relating to all customers in the compilation, and
10 that the jury heard that the customers involved in the transactions presented at trial were a part of
11 the compilation. Given the fact that misappropriation can be proven through circumstantial and
12 direct evidence, the Court finds that the evidence presented at trial does not lead to only one
13 reasonable conclusion in favor of Defendants.

14 Therefore, the jury’s finding that Defendants misappropriated trade secrets is supported
15 by substantial evidence.

16 **3. Defendants’ Misappropriation of the Trade Secret Caused Plaintiff Damage**

17 “A plaintiff may recover lost profits if the evidence establishes the damages with
18 reasonable certainty.” *Guidance Residential, LLC*, 2017 WL 6452421, at *5 (citing *Eagle Grp.,*
19 *Inc. v. Pullen*, 114 Wn. App. 409, 418–19, 58 P.3d 292 (2002)). “The reliability of such evidence
20 is for the trier of fact to determine.” *Id.* “A plaintiff ordinarily proves lost profits based on its
21 profit history.” *Eagle Grp., Inc.*, 114 Wn. App. at 418. However, as it is sometimes difficult to
22 find “[a] measuring stick, whereby damages may be assessed within the demarcation of
23 reasonable certainty,” a plaintiff “must produce the best evidence available and ‘ . . . if it is
24 sufficient to afford a reasonable basis for estimating his loss, he is not to be denied a substantial

1 recovery because the amount of the damage is incapable of exact ascertainment” *Lundgren*
2 *v. Whitney’s, Inc.*, 94 Wn. 2d 91, 98, 614 P.2d 1272, (1980) (citation omitted). “If a plaintiff has
3 produced the best evidence available, and if the evidence affords a reasonable basis for
4 estimating the loss, courts will not permit a wrongdoer to benefit from the difficulty of
5 determining the dollar amount of loss.” *Id.* “[W]here the fact is well established that profits
6 would have been made and the difficulty in proving their amount is directly caused by the
7 defendant’s breach, a greater liberality is permitted in making estimates and drawing
8 inferences.” *Nw. Prod. Design Grp., LLC v. Homax Prods., Inc.*, No. 67278-9-I, 2013 WL
9 992666, at *10 (Wash. Ct. App. Mar. 11, 2013) (quoting *No Ka Oi Corp. v. Nat’l 60 Minute*
10 *Tune, Inc.*, 71 Wn. App. 844, 851, 863 P.2d 79 (1993)). The Washington Court of Appeals has
11 found that expert testimony alone is sufficient to award lost profits. *Eagle Grp., Inc.*, 114 Wn.
12 App. at 419 (citing *Larsen v. Walton Plywood Co.*, 65 Wn.2d 1, 17, 390 P.2d 677 (1964)).

13 Defendants argue that Plaintiff claimed damages without proof of customer decision
14 making, and that Plaintiff focused on “Defendants’ transactions without proof of [Plaintiff]’s
15 willingness or ability to engage in such transactions or the terms which [Plaintiff] would have
16 offered. . . .” Dkt. No. 321 at 25. Essentially, Defendants argue that Plaintiff seeks damages
17 based on speculation, because Plaintiff “asked the jury to infer that it would have completed all
18 of [Defendant] Ambyth’s transactions on its profit margins had Defendants not used Silver
19 Fern’s trade secrets.” *Id.* at 26.

20 At trial, Plaintiff called Neal Beaton as a witness. Mr. Beaton testified about Plaintiff’s
21 past lost profits, the profits that Plaintiff had already lost as of the time Mr. Beaton issued his
22 report, and Plaintiff’s expected future lost profits. *See* Dkt. No. 344-7 (N. Beaton Trial
23 Testimony Dec 11, 2025) at 3–5 (8:19–10:8)). Mr. Beaton’s evidentiary testimony showed that
24 he calculated past and future lost profits by looking at what Plaintiff was doing prior to

1 Defendants Lyons, Kinto and Holmes’s departures, compared to what Plaintiff was doing after
2 that time, and that he measured the difference between what Defendant Ambyth had been
3 generating in sales after Defendants Lyon, Kinto and Holmes joined it. *See id.* at 4–5. In other
4 words, Mr. Beaton “figured out the revenue associated with the customers at issue, applied
5 [Plaintiff]’s profit margin to determine how much money [Plaintiff] would have made if those
6 customers had stayed at [Plaintiff], and used that methodology to calculate both past and future
7 lost profits.” Dkt. No. 343 at 23 (citing Dkt. No. 344-7 at 6–13 (14:10–21:23)). Mr. Beaton’s
8 methodology only included calculating the past and future loss Plaintiff incurred as a result of
9 Plaintiff’s former customers instead working with Defendant Ambyth after the arrival of
10 Defendants Lyons, Holmes, and Kinto. Dkt. No. 344-7 at 3–4 (8:19–9:5). “The jury is free to
11 accept or reject the evidence provided, so long as the verdict is within the range of the evidence.”
12 *Guidance Residential, LLC*, 2017 WL 6452421, at *9 (citing *Ed Nowogroski Ins., Inc. v. Rucker*,
13 88 Wn. App. 350, 359, 944 P.2d 1093, 1097 (1997), *aff’d*, 137 Wn. 2d 427, 971 P.2d 936
14 (1999)). And here, the jury did so by listening to Mr. Beaton’s testimony and deciding that
15 Defendants caused damages that resulted in a \$1,916,137.00 award. It was logical for the jury to
16 make the connection between Defendant Ambyth’s revenue increasing as a result of new
17 customers who had formerly dealt with Plaintiff and had not previously been customers of
18 Defendant Ambyth, and Plaintiff’s losing out on revenue from those customers. The jury
19 reasonably considered that this was damage to Plaintiff that had been caused by Defendants.
20 Further, viewing the evidence in light most favorable to Plaintiff, this body of evidence cannot
21 reasonably lead the Court to finding that the only reasonable conclusion is that Plaintiff did not
22 prove damages.

23 Therefore, the jury’s finding that Defendants caused Plaintiff damage by
24 misappropriating trade secrets is supported by substantial evidence.

1 **B. Breach of Contract by Defendants Lyons, Kinto, and Holmes**

2 To prove breach of contract, a plaintiff must show: (1) a valid contract, (2) a breach of
3 duty arising under that contract, and (3) the resulting damage. *Lakeview Loan Serv., LLC v.*
4 *Snyder*, No. C25-5344, 2026 WL 113614, at *3 (W.D. Wash. Jan. 15, 2026) (citing *Nw. Indep.*
5 *Forest Mfrs. v. Dep't of Labor & Indus.*, 78 Wn. App. 707, 712, 899 P.2d 6 (1995)). Here,
6 Defendants argue that the confidentiality agreements for Defendants Lyons and Holmes did not
7 cover information that is known to the public or competitors, and that Defendant Kinto's
8 agreement carved out an exception for legacy customers. Therefore, "Plaintiff's concessions that
9 its customers were known to competitors are fatal to its contract claims[.]" Dkt. No. 321 at 27.
10 Additionally, Defendants argue that "Plaintiff's breach of contract claim also fails because it did
11 not prove damages due to the individual Defendant's [*sic*] alleged actions." *Id.* Defendants assert
12 that individual damages were not proven because Plaintiff's expert, Mr. Beaton, "specifically
13 disclaimed any such calculation based on individual Defendants' actions or transactions." *Id.*

14 Again, Defendants rely, in part, on the theory that the fact that identities of some of the
15 customers were public means there was no breach by Defendants. But, as discussed above,
16 Plaintiff showed that its customer compilation included much more than just the identities of the
17 customers. Further, Plaintiff showed through direct and circumstantial evidence that Defendants
18 used such information at Defendant Ambyth. *See supra* Section III.A.2. Therefore, despite the
19 jury's having heard that the confidentiality agreements of Defendants Holmes and Lyons did not
20 cover information known to the public, the jury also heard that the compilation included
21 substantial information that was not public and was part of Plaintiff's trade secret. *See supra*
22 Section III.A.1.b.

23 As to Defendant Kinto's testimony about legacy customers, the jury also heard
24 competing testimony from Sam King that some of the customers Defendant Kinto claimed were

1 legacy customers with whom he had worked with before his employment with Plaintiff, and
2 whom he had taken with him to Defendant Ambyth, were not actually customers with whom he
3 had done business prior to working for Plaintiff. Dkt. No. 344-5 at 25–27 (131:24–133:19).
4 Meaning, the jury heard evidence that some of the customers Defendant Kinto claimed to work
5 with at Defendant Ambyth were not customers he had had prior to working for Plaintiff. The jury
6 is the judge of a witness’s credibility, and the jurors decided that they believed Sam King’s
7 testimony.

8 Further, Defendants point to no evidence from the trial that demonstrates that they
9 attempted to continue customer relationships without the information from Plaintiff’s customer
10 compilation. In other words, Defendants do not identify any evidence from trial that tends to
11 indicate that they did not breach their confidentiality agreements through the relationships with
12 Plaintiff’s former customers. Finally, the jury heard evidence from Mr. Beaton about Plaintiff’s
13 lost profits from customers who did business with Defendant Ambyth instead of Plaintiff. Dkt.
14 No. 344-7 at 3–5 (8:19–10:8). Mr. Beaton’s testimony was evidence of damages that resulted
15 from Defendants Lyons, Kinto, and Holmes’s working with customers who formerly did
16 business with Plaintiff. *See also supra* Section III.A.3. Although the jury did not award
17 additional monetary damages for the breach of the confidentiality agreements, they still found
18 that damages resulted from this breach. There was also evidence that Defendants Holmes, Lyons,
19 and Kinto worked together to plan their departure from Plaintiff, take Plaintiff’s confidential
20 information, and use it at Defendant Ambyth. *See* Dkt. No. 344-6 at 11 (52:3–25); *see also infra*
21 Section III.C. But in the end, while the jury found Plaintiff had been injured by the three
22 Defendants, it also found that there was no additional damage beyond what it had awarded for
23 the trade-secret violations. The jury awarded no additional money to Plaintiff for the breach of
24 confidentiality claims. Dkt. No. 316 at 8. Given the evidence as a whole, it cannot be said that

1 the only possible conclusion that can be reached is that Plaintiff was not damaged by Defendants
2 Lyons, Kinto, and Holmes's breaching of their confidentiality agreements.

3 Therefore, the jury's finding that Defendants committed breach of contract is supported
4 by substantial evidence.

5 **C. Willful and Malicious**

6 To begin, Plaintiff argues that Defendants did not raise arguments in their oral Rule 50(a)
7 motion related to whether Defendants' actions were willful and malicious. Dkt. No. 343 at 25.
8 The transcript of Defendants' Counsel's arguments supports Plaintiff's assertion. *See* Dkt.
9 No. 344-7 at 14–32 (123:11–141:17). Further, Defendants do not dispute that they did not make
10 arguments regarding willful and malicious in their Rule 50(a) oral motion. *See* Dkt. No. 352 at
11 14–15. If the grounds for a 50(b) motion were not previously asserted in a Rule 50(a) motion, the
12 court should reverse a jury's verdict only if there is plain error. *See Yeti by Molly, Ltd. v. Deckers*
13 *Outdoor Corp.*, 259 F.3d 1101, 1109 (9th Cir. 2001). “This exception, however, permits only
14 extraordinary deferential review that is limited to whether there was *any* evidence to support the
15 jury's verdict, irrespective of its sufficiency.” *Id.*

16 Neither the DTSA or WUTSA defines willful or malicious. *See* 18 U.S.C. § 1836; RCW
17 19.108.010. Because the statutes do not define willful or malicious, the Washington Court of
18 Appeals has, in the context of trade secrets, used dictionary definitions to define the terms. *See,*
19 *e.g., Kassa Ins. Servs., Inc. v. Pugh*, Nos. 31196-1-III & 31300-0-III, 2014 WL 1746059, at *5
20 (Wash. Ct. App. Apr. 29, 2014). “‘Willful’ is synonymous with ‘voluntary’ and
21 ‘intentional.’” *Id.* (citing Black's Law Dictionary at 977, 1640 (8th ed. 2004)). The Court's final
22 jury instructions defined maliciousness as “being characterized by, or as a result of, ill will or
23 improper motive.” Dkt. No. 307 at 30.

1 In sum, Defendants argue that they “did nothing more than compete for business from the
2 customers they dealt with in the past.” Dkt. No. 321 at 28. But “even in the absence of an
3 enforceable covenant not to compete, [a former employee] remains under a duty not to use or
4 disclose, to the detriment of the former employer, trade secrets acquired in the course of previous
5 employment.” *Nowogroski Ins., Inc.*, 137 Wn.2d at 437. Defendants also assert that they “used
6 information generally available to competitors[.]” Dkt. No. 321 at 28. But the evidence told a
7 different story. The jury heard evidence that: Defendant Kinto at one point believed that he and
8 Defendants Lyons and Holmes were violating their confidentiality agreements (*see* Dkt. No. 344-
9 3 at 4 (83:15–19); Defendant Kinto said he did not want to get caught in a “tangled web of lies”²
10 in a texting thread with Defendants Holmes and Lyons, where the three were discussing their
11 confidentiality agreements with Plaintiff (*id.* at 3 (81:1–83:14); in the same text thread while
12 discussing departure dates, Defendant Holmes said, “FYI, there is a chance our phones could get
13 subpoena’d if this gets ugly” (Plaintiff Exhibit 70); Defendant Kinto received advice that using
14 Plaintiff’s confidential information might be a breach of his confidentiality agreement but
15 proceeded anyway (*see id.* at 5 (86:5–12), 6 (87:9–16)); Defendants Lyons, Kinto, and Holmes
16 planned their departure months in advance, but only notified Sam and Lisa King the morning of
17 their departure (*id.* at 7–9 (88:5–90:10); Dkt. No. 344-6 (52:11–20)); Defendants Lyons, Kinto,
18 and Holmes deleted emails they sent and received, thus ridding a paper trail of what was
19 happening (Dkt. No. 344-4 (L. King Trial Testimony Dec. 5, 2025) at 4–6 (8:21–10:17); Plaintiff
20 was a small company where Defendants Lyons, Kinto, and Holmes made up half of the sales
21 team, were the most senior salespersons, and losing them so abruptly was a big deal (*id.* at 4–5
22 (8:21–9:11); and the hasty exit of Defendants Lyons, Kinto, and Holmes left Sam and Lisa King

23
24 ² Defendants assert that this particular text was about golf. Dkt. No. 352 at 14. But again, the jury’s verdict reflects they did not find this assertion credible.

1 with monumental damage control to deal with (*id.* at 3–7 (7:19–11:4)). Defendants presented
2 explanations for much of this evidence, but the jury’s verdict reflects that it rejected those
3 explanations. The jury found that Defendants acted willfully and maliciously. Dkt. No. 316 at 3.
4 Viewing the evidence in light most favorable to Plaintiff, the Court does not find that the only
5 reasonable conclusion is contrary to the jury’s finding. Under the plain-error standard, the Court
6 finds there was evidence to support the jury’s verdict. Even if the Court applies the typical
7 standard of sufficiency, it finds the evidence the jury relied on was sufficient.

8 Therefore, the jury’s finding that Defendants acted willfully and maliciously is not plain
9 error, and is also supported by substantial evidence.

10 **D. Defendants’ Request for a New Trial**

11 Defendants move for a new trial as an alternative to their motion for judgment as a matter
12 of law. Dkt. No. 321 at 29. Defendants do not make any new arguments for why they should be
13 granted a new trial and, instead, incorporate the arguments they made in support of their motion
14 for judgment as a matter of law. *See id.* A “trial court may grant a new trial only if the verdict is
15 contrary to the clear weight of the evidence, is based upon false or perjurious evidence, or to
16 prevent a miscarriage of justice.” *Molski*, 481 F.3d at 729 (quoting *Passantino v. Johnson &*
17 *Johnson Consumer Prods.*, 212 F.3d 493, 510 n.15 (9th Cir. 2000)). Incorporating the rationale
18 the Court provided throughout this Order on Defendants’ motion for judgment as a matter of law,
19 the jury’s verdict is not contrary to the clear weight of the evidence. Therefore, the Court DENIES
20 Defendants’ motion for a new trial.

21 //

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IV. CONCLUSION

Accordingly, Defendants' Renewed Motion for Judgment as a Matter of Law is DENIED.
Defendants' alternative motion for a new trial is also DENIED.

Dated this 25th day of August, 2026.

A handwritten signature in black ink, appearing to read 'Tana Lin', is written over a solid horizontal line.

Tana Lin
United States District Judge