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**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

GENOMIC PREDICTION, INC.,

Plaintiff,

-against-

NATHAN TREFF, TALIA METZGAR
and NUCLEUS GENOMICS, INC.,

Defendants.

Case No. 2:25-cv-16850-SDW-AME

District Judge Susan D. Wigenton,

Magistrate Judge Andre M. Espinosa

Motion Date: November 4, 2025

**DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S APPLICATION FOR A PRELIMINARY INJUNCTION
WITH TEMPORARY RESTRAINING ORDER AND LIMITED
EXPEDITED DISCOVERY**

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Defendants Nucleus Genomics, Inc. (“Nucleus”), Nathan Treff, and Talia Metzgar (collectively, “Defendants”) respectfully submit this memorandum of law in opposition to Plaintiff Genomics Prediction, Inc.’s (“GP”) application for a preliminary injunction with temporary restraining order and limited expedited discovery (the “Motion” or “Mot.”).

PRELIMINARY STATEMENT

Nathan Treff, PhD co-founded Plaintiff Genomic Prediction, Inc. (“GP”), a traditional preimplantation testing (“PGT”) laboratory primarily servicing fertility clinics, more than eight years ago. At the time of GP’s formation, Dr. Treff took less equity than his co-founders (only one of whom remains) and, for the last eight years, has been a passionate and loyal employee of GP. Despite this, and much to his disappointment, GP has been in a downward spiral under the leadership of its current CEO, Kelly Ketterson. GP was forced to relocate from the prestigious think tank that was once its home due to unpaid rent. GP has developed a toxic culture in which its executives are comfortable berating and cursing at employees. And, as part of a “restructuring,” GP cut fringe benefits, resulting in an untenably large pay cut for Dr. Treff that left him unable to support his family. These events left Dr. Treff with no choice but to resign, which GP has reacted to with irrationality and vengeance.

Put simply: GP forced Dr. Treff's resignation on August 12 and now it wants to make sure he has, in the words of its Board member Steve Hsu, "no house and cannot afford to send his kids to college." In doing so, GP uses this Motion as an opportunity to take gratuitous shots at Dr. Treff, as well as that of his employer, Nucleus Genomics., Inc. ("Nucleus"), a genetics software company, by baselessly accusing the two of them of using GP's unidentified "trade secrets." To add further insult to injury, GP names Dr. Treff's girlfriend as a defendant, despite no wrongdoing. At bottom, this Motion reflects nothing more than the last desperate act of a struggling business to get out from underneath its own shortcomings. That is not a basis for the extreme relief that GP now seeks, and should be denied.

To begin, GP falls woefully short of demonstrating a likelihood of success on its trade secret or contract claims. As to the former, GP identifies three "categories" of trade secrets, each more dubious than the next: (i) a standard, basic method of performing "genomic testing" that has been accepted in the genetic industry for well-over a decade, which GP also published a publicly available, peer-reviewed article detailing (in other words, it could not be less of a secret); (ii) generalized claims of "confidential research and development" that run directly afoul of controlling Third Circuit precedent regarding protectible information; and (iii) a series of "Controlled Documents" that GP acknowledges are public facing (i.e., widely distributed to clinicians and patients alike) and that were freely shared with Nucleus.

Even if there was a cognizable trade secret (and there is not) there is no evidence of misappropriation. *None*. The un rebutted record confirms this point: Dr. Treff did not (i) copy any GP information from his company laptop; (ii) take any GP information; or (iii) share any GP information. Notwithstanding GP's false accusations and suspicions, Dr. Treff has no GP trade secrets in his possession, custody, or control and GP has presented *no evidence* to the contrary (because none exists). The claims against Ms. Metzgar are even more specious—GP accuses Ms. Metzgar of emailing herself approximately 30 documents (while only listing 18), nearly all of which are admittedly public facing. But, what GP conveniently fails to disclose to the Court is that *Ms. Metzgar deleted these files in GP's presence*—a material fact plainly omitted to justify Ms. Metzgar's inclusion in this Action.

GP's contract claims fare no better. To the extent they rest on the same conclusory "trade secret" theories, they fail out of the gate for the reasons above. That aside, GP's claims fail as to Dr. Treff because the Non-Compete Agreement ("NCA") upon which GP's claims rest is impossibly overbroad and, therefore, unenforceable. In any event, on a more fundamental level, there cannot be a breach of a non-compete where (as is the case here) the employee does not go to a competitor. The record on this score could not be more clear: (i) Dr. Treff's own non-compete lists many competitors, but none of them are Nucleus (or any other similar business); (ii) Nucleus (a software company) and GP (a traditional specimen

testing laboratory, *i.e.* “wet lab”) are entirely different businesses rendering entirely different services; and (iii) in fact, Nucleus and GP view themselves as *complementary* partners (not competitors) as evinced by the fact that the two businesses agreed to market and promote their respective services and products.

Finally, GP cannot be heard to have suffered irreparable harm, when it sat on its hands for *two months* to bring this suit just days before GP and Nucleus’s attendance at one of the largest annual conferences in the fertility and genetics industry. GP knew no later than August 20 that Dr. Treff was joining Nucleus—***Nucleus gave them a draft press release statement.*** Despite this, GP kept Dr. Treff on board for *two more weeks* as a consultant. And GP should find no cover by trying to rely upon Nucleus’s statement of work (“SOW3”) with Sampled as an excuse for its tactical delay. Sampled is a renowned biotechnology services provider that Nucleus had already been working with for months before it even began engaging with GP, much less hired Dr. Treff. More importantly, the SOW3 demonstrates nothing more than the fact that Nucleus had contracted with Sampled to utilize one of the most commonly used DNA processing tools in the world, which has nothing whatsoever to do with GP.

GP’s application is replete with gross factual misstatements, exaggerations and conclusory allegations unsupported by the factual record before the Court. For these reasons and the reasons below, the Motion should be denied.

STATEMENT OF FACTS

A. GP is a PGT Wet Lab Using Commonly Accepted Genetic Testing Techniques.

GP is a genomic testing company that provides PGT services for fertility clinics. GP is a traditional “wet lab,” in that it performs genetic testing at its onsite laboratory. (Treff Decl. ¶ 7.) Depending on a patient’s particular needs, GP runs tests for (i) chromosomal abnormalities (PGT-A); (ii) monogenic disorders (PGT-M); (iii) structural rearrangements (PGT-SR); and (iv) polygenic diseases (PGT-P). (*Id.*, ¶ 16.) Branded as their “LifeView Embryo Health Score Test,” GP is able to screen for twelve diseases. (*Id.*, ¶ 17.) There are several laboratories offering similar genetic testing services that compete with GP, including: Gattaca Genomics; Igenomix; Centogene; HRC Fertility; Sequence46; Luminary Genetics; Progenis; Natera; Kindlabs; Create Fertility; Reproductive Genetic Innovations; Colorado Center for Reproductive Medicine (“CCRM”) Fertility; Lilac Insights; Juno Genetics; CooperSurgical; Orchid; Nova Genomics; GenEmbryomics; and Juniper Genomics. (*Id.*, ¶ 18; Sadeghi Decl. ¶ 11.)

The PGT testing performed at the labs mentioned above follow the following basic steps:

- **Step One**: PGT lab provides embryo biopsy kit to IVF fertility clinic;
- **Step Two**: IVF fertility clinic performs embryonic biopsy and returns biopsy to PGT lab for further testing;

- **Step Three**: PGT lab amplifies the sample DNA (*i.e.*, makes multiple copies of a DNA sequence);
- **Step Four**: The amplified DNA sample is processed, such as by using a single nucleotide polymorphism (“SNP”) microarray or next generation sequencing (“NGS”) to convert the DNA into raw data for analysis.

(Treff Decl. ¶ 19.) The two most popular SNP array platforms are offered by Affymetrix and Illumina.¹ (*Id.*, ¶ 20.) Some PGT labs have SNP array platforms onsite and are capable of performing Step Four in-house. (*Id.*, ¶ 21.) Other labs, however, do not offer SNP array analyses and, for these labs, Nucleus Genomics, Inc. (“Nucleus”) outsources the DNA samples to third-party service providers like Sampled (a renowned biotechnology services provider) to process the SNP array and convert the DNA sample into raw data. (*Id.*) For these labs, Nucleus coordinates with the service provider directly to have the amplified DNA processed. (*Id.*; Sadeghi Decl. ¶¶ 14-16.)

None of what GP does in performing genomic testing is novel. DNA amplification and the use of SNP array platforms to perform analyses on embryo biopsies are practices that have existed for many years—well-before GP was even formed. (Treff Decl. ¶¶ 22-27.) On the contrary, GP’s PGT testing methodology—

¹ GP uses the Affymetrix platform and, until recently, was capable of completing this Step Four in-house. Currently, however, GP outsources this final step to Sampled for processing. (Treff Decl., ¶ 20.)

that is, the use of amplified DNA (processed by SNP arrays)—has been the industry norm in the fertility and genetics field for well-over a decade. (*Id.* ¶ 24.)

In fact, in 2019, Dr. Treff authored a peer-reviewed article, in which he detailed GP’s PGT testing practices. (*Id.* ¶ 27.) Among other things, Dr. Treff explained how the embryo biopsies were amplified using an ePGT kit recommended by GP and processed using Affymetrix’s SNP array platform (the very same SNP array that GP still uses today), which generated data for GP to then perform its testing and analysis. (*Id.*) The article even references the use of GP’s software, “gSUITE,” to perform an analysis protocol and identifies the specific “Coriell Cell Line ID” for the positive control samples that were used, including the reasons specific cell lines were selected. (*Id.* ¶¶ 27, 31.) Most importantly, these very techniques—which are laid out in detail in the article—are still followed by GP today. (*Id.* ¶ 27.)

B. Nucleus is a Software Genetics Company that Performs Tests that GP and PGT Labs Cannot.

Nucleus is a dry lab: it does not perform the same work as GP and other PGT labs and it is not developing or otherwise acquiring a PGT wet lab. (*Id.* ¶¶ 35-37; Sadeghi Decl., ¶ 45.) Nucleus does not acquire or process physical embryo biopsies, amplify DNA, perform any PGT tests, or any other traditional PGT services. (Sadeghi Decl., ¶ 15; Treff Decl., ¶ 37.) Instead, Nucleus builds off of the work performed at the PGT lab stage, by using the data the wet labs collect in order to

prepare its separate genetics report. (Sadeghi Decl., ¶ 16; Treff Decl., ¶ 38.) Once the PGT labs complete their analysis, Nucleus then receives the “leftover” data samples, which are separately processed within Nucleus’s proprietary software to generate polygenic predictions for diseases and traits that are not captured through traditional PGT testing. (Sadeghi Decl., ¶ 16; Treff Decl., ¶ 38-39.) Nucleus also performs approximately forty *additional* analyses on behalf of IVF labs and clinical patients by reporting on complex traits and disease risks that PGT labs do not perform and are not equipped to perform. (Sadeghi Decl., ¶ 16; Treff Decl., ¶¶ 36-38.)

In the typical case, Nucleus receives the raw data from the SNP array (or other SNP genotyping data from the underlying PGT lab) and then separately processes that data within Nucleus’s proprietary software to generate polygenic predictions for diseases and traits that are not otherwise reported by the PGT lab. (Sadeghi Decl., ¶ 17; Treff Decl., ¶ 38.) In other cases, when the PGT lab does not offer routine SNP genotyping data, Nucleus patients will request that the “leftover” DNA be delivered to Sampled to run SNP arrays, which then allows for Nucleus’ proprietary software to generate predictions for diseases and traits that are otherwise not reported by the PGT lab. (Sadeghi Decl., ¶ 18; Treff Decl., ¶ 39.)

Prior to its relationship with GP in June 2025, Nucleus had already established inroads with some of the biggest players in array sequencing. (Sadeghi Decl., ¶¶ 20-

25.) In March 2024, Nucleus teamed up with Illumina to use its innovative sequencing and array technologies to process and analyze genetic data it receives from labs. (Sadeghi Decl., ¶ 21.) Through this relationship with Illumina, Nucleus was later introduced to Sampled in January 2025, after which the two entered into a master services agreement, through which Nucleus has continued to make work orders. (Sadeghi Decl., ¶¶ 22-24.)

C. GP Enters a Marketing Agreement with Nucleus and Proceeds to Share With Nucleus Its Patient and Clinical Forms.

Because Nucleus relies upon the work performed by PGT wet labs to then render its complementary services, an essential aspect of Nucleus's business is to build working relationships with these labs. (Sadeghi Decl., ¶ 26.) GP presented as a promising partner, given its ability to perform the four steps of PGT testing. (Sadeghi Decl., ¶¶ 26-28.) In fact, a partnership between the two companies made sound business sense. (*Id.*) For Nucleus, it presented an opportunity to work more frequently with an established and reliable PGT lab. (*Id.*) And, for GP, it presented an opportunity for it to tap into Nucleus's strong consumer facing marketing and network of patients for PGT services, as well as provide GP's existing patients and clients with access to Nucleus's expansive and innovative analysis and resources. (*Id.*, ¶ 27.)

Recognizing the complementary nature of the parties' respective businesses, on or about June 2, 2025, Nucleus and GP entered into a Marketing and Referral

Agreement (the “Marketing Agreement”), which memorialized GP and Nucleus’ “referral relationship,” in which the parties would promote their separate, complementary services and products. (Sadeghi Decl., ¶ 29; Treff Decl., ¶ 41-44.) In fact, Nucleus and GP issued a joint press release, in which Kelly Ketterson (GP’s Chief Executive Officer), acknowledged the strategic value of the partnership for GP, since Nucleus filled a major void in services GP is incapable of providing:

We have a legacy of innovation aimed at providing patients with access to the best scientific resources. ***Our partnership with Nucleus opens access to information our patients have requested and allows us to uphold our commitment to this legacy.***

(Sadeghi Decl., ¶ 32, Ex. 3.) Echoing Ms. Ketterson’s view, Steven Hsu (GP’s co-founder) published a tweet that same day, discussing the partnership:

Genomic Prediction partners with Nucleus Genomics. We've genotyped 120k+ embryos and the number is growing rapidly.

To be clear, ***when parents and their IVF physician request additional analysis for complex traits and disease risks that GP does not provide, we partner with Nucleus.***

(Sadeghi Decl., ¶ 33, Ex. 4.)

During the course of this partnership, Nucleus and GP worked collaboratively to identify potential clinics and patients to refer work to each other. (Sadeghi Decl., ¶ 35.) The parties even created a “nucleus-genomic-prediction” Slack channel for the two companies to speak directly and to discuss, among other things, potential leads. (*Id.*) Through Slack and email, the parties also exchanged documents with

one another, including several documents that GP now claims to be “trade secrets,” including:

- Informed Consent for Preimplantation Genetic Testing PGT-A: Aneuploidy Screening
- Informed Consent for Preimplantation Genetic Testing PGT-A: PGT-A+ Aneuploidy Screening + Secondary Findings (origin of Aneuploidy Prediction)
- Informed Consent for Preimplantation Genetic Testing PGT-P: Polygenic Screening
- Preimplantation Genetic Testing Test Requisition Form
- Authorization and Payment to Release Embryo Genotyping data to Nucleus Genomics Inc

(Sadeghi Decl., ¶¶ 36-39.) And, at least two of GP’s allegedly “secret” forms (the “Preimplantation Genetic Testing Sample Submission Form” and “Trophectoderm Biopsy Kit Instructions”) are readily available online. (Sadeghi Decl., ¶ 39.) None of these documents are marked as “confidential” or “sensitive,” and at no point did GP ever warn Nucleus to keep these documents confidential. (Sadeghi Decl., ¶ 40; *see also* Metzgar Decl., ¶ 16.) Far from being a “trade secret,” these are public documents for clinicians and patients to sign, prior to authorizing PGT treatment. (Sadeghi Decl., ¶ 41; *see also* Metzgar Decl., ¶¶ 8-16.)

D. GP’s Financial Struggles and Toxic Workplace Force Dr. Treff to Resign.

On March 13, 2025, GP received a notice of eviction from the New Jersey Bioscience Center—a prestigious pharmaceutical thinktank that is home to Ascendia Pharma, Boehringer Ingelheim, and Rutgers University—for failing to pay six

months of rent. (Treff Decl., ¶ 46.) As a result, GP was forced to vacate its North Brunswick location (where it had operated for 8 years) for a more affordable site forty miles away in Hackettstown. (*Id.*) The following month, April 2025, Ms. Ketterson recommended making salary cuts and layoffs, in an effort to reduce GP's financial stress. (*Id.*, ¶ 47.) As a father with two children in college, Dr. Treff objected to any pay cut. (*Id.*, ¶ 48.) To make matters worse, Ms. Ketterson's erratic and abusive behavior fostered a toxic work environment at GP. (*Id.*, ¶¶ 49-50.) For example, Ms. Ketterson has berated and cursed at her colleagues and employees—including calling Dr. Treff a “liar,” “asshole,” “stupid in life,” “rude, antagonistic, childish, and backstabbing” and “a horrendous partner.” (*Id.*)

In June, GP suspended Dr. Treff's fringe benefit payments (\$63,000, annualized), which were to cover his living expenses. (*Id.*, ¶ 51.) In August, GP informed Dr. Treff that it would be undertaking a “restructuring” that would permanently eliminate these benefits. (*Id.*) This was the final straw and led to Dr. Treff's decision to resign from the company he co-founded and holds equity in. (*Id.*)

Dr. Treff informed Nucleus that he was resigning from GP. Nucleus respected Dr. Treff's experience and reputation in the genetics field. (Sadeghi Decl., ¶ 46.) Given that Dr. Treff had become available to employ, on August 9, 2025, Nucleus extended a job offer to Dr. Treff, which he accepted on August 11, 2025 and tendered his resignation from GP the following day, August 12. (*Id.*; Treff Decl., ¶ 66.)

Nucleus informed GP on August 16, 2025 that it was hiring Dr. Treff. (Sadeghi Decl. ¶ 49.) Nucleus believed Dr. Treff would bring added value and credibility to Nucleus's reputation as a leading genetic analysis software company. (*Id.*, ¶ 46). Given that Dr. Treff was already planning to resign (with no objection from GP) and, as Nucleus learned shortly thereafter, GP was already in active pursuit of Dr. Treff's replacement, Nucleus did not expect the hiring to disrupt the ongoing, collaborative, relationship it had with GP. (Sadeghi Decl., ¶ 47).

E. Nucleus's Discussions of a Potential Acquisition of GP.

In early August 2025, the principals of Nucleus and GP began preliminary discussions of a potential acquisition. (*Id.*, ¶ 48.) From Nucleus's perspective, an acquisition made good business sense for both companies, especially given that GP was struggling financially. (*Id.*, ¶ 45.) Although acquiring a PGT wet lab was and is not in Nucleus's general strategic plan, the opportunity presented by the specific circumstances of GP made it interesting to Nucleus. (*Id.*, ¶ 45.). According to Ms. Ketterson, GP's board was "open to exploring" the deal and was preparing a data room for Nucleus's access and evaluation. (*Id.*, ¶ 48.)

On August 20, 2025, GP and Nucleus held a Zoom call to continue discussions regarding the potential acquisition. (*Id.*, ¶ 50.) Towards the end of the call, the topic of discussion shifted towards Nucleus's hiring of Dr. Treff. (*Id.*) Ms. Ketterson and Mr. Hsu indicated that they had been planning to "part ways" with Dr. Treff by end

of August.² (*Id.*, ¶ 51.) Mr. Hsu then became animated and warned Nucleus that if the parties were unable to strike a deal that he would “sue Nathan until he had no house and cannot afford to send his kids to college.” (*Id.*)

Based on these remarks (and others), Mr. Sadeghi understood that the relationship between Dr. Treff and GP had soured by the time Dr. Treff resigned, and chalked up the exchange to some lingering resentment. (*Id.*, ¶ 52.) Later that same day, Nucleus asked GP for their input on a prepared press release regarding Dr. Treff’s joining Nucleus, at which time Mr. Sadeghi explained to Ms. Ketterson that Dr. Treff would be serving as Chief Clinical Officer and working on Nucleus’s IVF+ program. (*Id.*, ¶ 53, Ex. 5.) In response, Ms. Ketterson’s only requests were to remove any mention of GP from the press release and to hold off on making any formal announcement until the following week—to provide sufficient time for GP to inform its “key accounts about [Dr. Treff’s] departure,” which Mr. Sadeghi agreed to. (*Id.*)

F. GP Waits Over Two Months, Until the ASRM Scientific Conference and Expo, To Bring Suit.

Although Nucleus continued to express interest in acquiring GP, shortly after the parties’ August 20 meeting, discussions regarding a potential acquisition stalled

² This was consistent with Mr. Sadeghi’s conversation with a GP board member who is also a Nucleus investor on August 16, at which time Mr. Ramakrishnan advised that GP was, in fact, planning to fire Dr. Treff prior to his resignation, due to the soured relationship between Dr. Treff and Ms. Ketterson. (Sadeghi Decl., ¶ 49.)

because GP refused to disclose its financials for Nucleus's review. (*Id.*, ¶ 56.) Instead, GP sent Nucleus and Dr. Treff a pre-suit demand letter—on August 20 and 27—accusing Dr. Treff of breaching his employment agreement, Nucleus of breaching the Marketing Agreement, and all parties of engaging in unfair competition, and violating federal and state trade secrets laws—allegations that are substantially the same as those alleged in this current lawsuit. (*Id.*, ¶ 57.) In an apparent effort to exert leverage, GP issued the following warning:

*Please also note that GP intends to release a **press release** that it is suing Nucleus, Mr. Treff, and Ms. Metzgar as so indicated in this letter.*

(*Id.*, ¶ 57, Exs. 6 and 7 (emphasis in original).) Nucleus responded to this letter on August 28 with detailed factual responses strongly denying the allegations. (Sadeghi Decl., ¶ 58, Ex. 8.) Despite GP's posturing, no lawsuit was filed at the time. (*Id.*) Despite all of this, , Nucleus continued to refer business to GP under the Marketing Agreement. (Treff Decl., ¶ 44.)

Then, after sitting on its hands for months, last week on October 22, GP suddenly filed this baseless lawsuit and request for emergency relief, accompanied by a press release announcing the filing. (Sadeghi Decl., ¶ 58.) As designed, GP's lawsuit received media attention and was reported in Law360 and GP issued a separate press statement on the matter. (*Id.*, Ex. 9.) The timing of GP's lawsuit appears to have been motivated by GP's interest in trying to publicly malign Nucleus (and more to the point, Dr. Treff), rather than protect any supposed "trade secrets."

(Sadeghi Decl., ¶ 59.) The lawsuit was filed just days before the annual Scientific Conference and Expo, hosted by the American Society for Reproductive Medicine, which is the largest professional event in the reproductive and fertility industry, and was attended by both Nucleus and GP. (*Id.*)

LEGAL STANDARD

Injunctive relief in the form of temporary restraints is “an extraordinary remedy which should be granted only in limited circumstances.” *Frank’s GMC Truck Ctr., Inc. v. General Motors Corp.*, 847 F.2d 100, 102 (3d Cir. 1988) (citation omitted). To obtain this “extraordinary remedy,” a plaintiff must demonstrate the following factors: (1) that he has “a reasonable probability of eventual success” on the merits; (2) that he “will be irreparably injured” absent injunctive relief; (3) that the balance of harms favors him; and (4) that the requested relief is in the public interest. *Dorval v. Moe’s Fresh Mkt.*, 694 Fed App’x 92, 93-94 (3d Cir 2017).

“A plaintiff’s failure to establish any element in its favor renders a preliminary injunction inappropriate.” *NutraSweet Co. v. Vit-Mar Enterprises, Inc.*, 176 F.3d 151, 153 (3d Cir. 1999). The first two factors (likelihood of success and irreparable injury) are the most important, such that “[a] failure to show a likelihood of success or a failure to demonstrate irreparable injury, must necessarily result in the denial of injunctive relief.” *Nat’l Inst. of Science and Tech. v. Mohapara*, 2020 WL 6323683 at *3 (D.N.J. 2020) (citation omitted).

Here, GP does not seek to merely maintain the status quo, but to alter it (*e.g.*, among other things, GP wants the Court to order Nucleus to, in effect, fire Dr. Treff). “[W]here the relief ordered by the preliminary injunction is mandatory and will alter the status quo, the party seeking the injunction must meet a higher standard of showing irreparable harm in the absence of an injunction.” *Bennington Foods LLC v. St. Croix Renaissance, Grp., LLP*, 528 F.3d 176, 179 (3d Cir. 2008). “Mandatory preliminary injunctions are disfavored” (*Silvertop Assocs., Inc. v. Kangaroo Mfg., Inc.*, 319 F. Supp. 3d 754, 761 (D.N.J. 2018)) and should be granted “sparingly.” *United States v. Spectro Foods Corp.*, 544 F.2d 1175, 1181 (3d Cir. 1976). As explained below, GP does not close to meeting this strict standard, and is therefore not entitled to either a TRO or preliminary injunction. Accordingly, the Motion should be denied.

ARGUMENT

I. GP WILL NOT SUCCEED ON THE MERITS

A. The Trade Secret Claim Fails

1. GP does not adequately allege a “trade secret”

In order to succeed on the merits of its trade secret claims under New Jersey or federal law, GP must first demonstrate the existence of a trade secret. *Ho-Ho-Kus, Inc. v. Sucharski*, 2023 WL 7403539, at *18 (D.N.J. Nov. 9, 2023). “[T]o succeed in an application for a preliminary injunction, a plaintiff must define their trade secrets with appropriate precision to ensure a tailored order, and to allow the

Court to accurately determine if there is a likelihood of success on the claim.” *Id.* at *18. “At a minimum, the subject matter of the trade secret must be described with sufficient particularity to separate it from matters of general knowledge in the trade or of special knowledge of those persons who are skilled in the trade, and to permit the defendant to ascertain at least the boundaries within which the secret lies.” *Mallet & Co. Inc. v. Lacayo*, 16 F.4th 364, 382 (3d Cir. 2021) (internal quotation marks omitted).

GP completely fails to carry its burden. It barely makes an attempt to describe its alleged “trade secrets,” spending less than one page of its 32-page brief on the issue. (Mot. at 13-14.) GP describes its trade secrets as follows:

1. “GP’s trade secret methods for performing its genomic testing”;
2. “[C]onfidential research and development to validate its tests and to adapt and onboard new technology from Illumina to make its testing process faster (the ‘Illuminia Project’); and
3. “GP’s pricing, cost, customer and other business information including its ‘Controlled Documents.’”

Id. These broad categories utterly lack the specificity required to demonstrate the existence of a trade secret in the context of an application for injunctive relief. Rather, they are akin to “a list of general categories of business and technical information, a list that could be used to describe documents found in any number of corporations,” which the Third Circuit has held will not justify the grant of equitable relief. *Mallet*, 16 F.4th at 382.

A comparison of what GP alleges and what the Third Circuit and courts in this District have held to be inadequate makes this plain. In *Mallet*, the court reversed the grant of injunctive relief in a trade secret case because the plaintiff inadequately described its purported trade secrets as follows:

Mallet's formulas; customer purchase orders demonstrating Mallet's pricing; identification of customers experiencing difficulty with Mallet's products; internal discussions of “actual major problems” at customer locations; internal discussions of how Mallet would address issues with its products; internal discussions of customers’ preferences and complaints; Mallet's completed organic certifications; identification of Mallet's supply source for product ingredients; Mallet's internal manuals and procedures showing how Mallet's lab is operated; pricing and volume data; information about Mallet's equipment; Mallet's training materials showing how Mallet markets and sells its products; and a compilation of Mallet's product specification sheets.

Id.

Likewise, in *Ho-Ho-Kus Inc. v. Sucharski*, the court denied injunctive relief because the plaintiff alleged only nonspecific categories as its “trade secrets,” including “customer lists, sales data, manufacturing blueprints, and inspection reports,” each of which had “additional descriptions of no more than two sentences, each of which are copied directly from the Complaint.” 2023 WL 7403539, at *19. The court held that such generic allegations “make it impossible for the Court to determine that it is reasonably likely to succeed on its misappropriation of trade secrets claims” because the plaintiff “has not adequately stated the specific data Defendants may have in their possession.” *Id.*

Similarly, in *US LBM Operating Co. 2009, LLC v. One Source Kitchen and*

Bath, Inc., the plaintiff alleged in connection with its request for a preliminary injunction that its “customer information, pricing, design specifications, [and] installation specifications” were trade secrets. 2023 WL 8432733, at *6 (D.N.J. Dec. 5, 2023). The court denied injunctive relief because these allegations were nonspecific, holding that the plaintiff’s failure to “adequately identify the allegedly misappropriated trade secrets prevents the Court from engaging in the first prong of the preliminary injunction analysis as to Plaintiffs’ trade secrets claim.” *Id.*

The same result follows here. GP’s unadorned allegation that its “methods” for performing its genomic testing are trade secrets (Mot. at 13-14) sheds no light on what those purported “methods” entail. *See Mallet*, 16 F.4th at 382 (references to “formulas” and “procedures” fail to allege a trade secret). Likewise, GP’s allegations of “research and development to validate its tests” including with respect to the third-party Illumina technology (Mot. at 13) says nothing specific about the substance of that research and development. Similarly, GP’s generic allegations regarding “pricing, cost, customer and other business information” (*id.* at 14) are of the exact sort courts routinely reject as inadequate for purposes of injunctive relief. *See Mallet*, 16 F.4th at 382 (references to “pricing” and “customer” data deemed insufficient); *Ho-Ho-Kus*, 2023 WL 7403539, at *19. (reference to “customer lists” and “sales data” is inadequate); *US LBM Operating Co.*, 2023 WL 8432733, at *6

(allegations of “customer information” and “pricing” are inadequate).³

GP therefore fails to adequately allege the existence of a trade secret. Accordingly, it cannot establish it is likely to succeed on the merits of its trade secret claims and its request for injunctive relief should be denied.

2. *GP fails to demonstrate misappropriation*

Aside from its failure to allege a trade secret, GP has also failed to show misappropriation—an essential element of a trade secret claim under both New Jersey and federal law—which is “the knowing improper acquisition and use or disclosure of the secret.” *Ho-Ho-Kus*, , 2023 WL 7403539, at *18. GP claims that “[a]ll three Defendants have misappropriated GP’s trade secrets by retaining, using, disclosing or acquiring them without authorization,” but this is false. (Mot. at 15.)

³ Even taken at face value, some of what GP claims to be “secret” is actually public record. For example, with respect to GP’s purported trade secret methods of performing genomic testing, these methods are actually the subject of published and peer reviewed scientific papers, including ones authored by Dr. Treff. (Treff Decl., ¶¶ 22-27.) Further, with respect to the GP’s purportedly secret “customers,” GP identifies some of its partners and customers (IVF labs and the like) on its own website so they cannot be a secret, and as part of its marketing agreement with Nucleus, the two businesses are responsible for identifying and referring potential customers to each other. (*Id.*, ¶¶ 40-44.) Moreover, GP asserts that its “Controlled Documents” are trade secrets but based on the titles of those documents as set forth in GP’s supporting declarations (Ketterson Decl., ¶ 114), these appear to be public documents GP provides clinicians and patients to authorize certain services, and in fact GP shared many of these directly with Nucleus in connection with the Marketing Agreement (*See supra* p. 7; Sadeghi Decl., ¶¶ 36-42; Metzgar Decl., ¶¶ 6-18).

First, there is no evidence that any defendant “retained” any trade secret or even any of GP’s information at all. In fact, GP’s allegations and all of the evidence prove the opposite. GP complains that Dr. Treff “wiped” his laptop on his last day of work, thereby deleting all of its contents, including what GP claims are trade secrets. (Mot. at 7.)⁴ But by deleting the information, Dr. Treff obviously could not have “retained” it. Moreover, while GP asserts with no basis that it “*suspects* Treff copied these materials before wiping the laptop” (Mot. 7 (emphasis added)), its rank “[s]peculation is not evidence.” *Goode v. City of Philadelphia*, 776 F. App’x 80, 84 (3d Cir. 2019). The only evidence in the record is Dr. Treff’s sworn declaration that he **did not** make any copies of any of the material on the laptop before resetting it; he **did not** take any of GP’s material with him when he resigned; he **did not** give it to any third party including Nucleus or its employees; and he **does not** have any GP trade secrets or confidential information in his possession, custody, or control. (Treff Decl. ¶ 56.)

The same is true with respect to Ms. Metzgar’s purported emailing herself “Controlled Documents” (which are not trade secrets anyway (Metzgar Decl., ¶¶ 8-16; *see also supra* n.4)), which GP uses to insinuate without basis that she provided

⁴ Dr. Treff reset his laptop to factory settings before turning it in because there was sensitive, personal and family-related documents on it, and he informed GP at the time. (Treff Decl., ¶¶ 54-55.) The GP material on the computer all resided elsewhere on GP’s network, so nothing company-related was lost. (*Id.*) The accusation that he saved GP material locally on his laptop is false. (*Id.*, ¶ 55.)

these documents to Dr. Treff and/or Nucleus and at their direction. (Mot. at 19-20.) But the only evidence in the record refutes this. Ms. Metzgar’s sworn declaration states that neither Dr. Treff nor Nucleus nor anyone else asked her to email these documents; and that she did not print them or send them to anyone or even open them after emailing them to herself. (Metzgar Decl. ¶¶ 18-19; *see also* Treff Decl. ¶ 60; Sadeghi Decl. ¶ 43.) Then, when GP raised the email as an issue, on August 19, 2025, Ms. Metzgar ***deleted the email in GP’s presence*** from her personal yahoo email account and also its trash folder, with GP then confirming with her that it ***had not been retained*** in any location on her device. (Metzgar Decl., ¶¶ 22-26.) GP leaves out these critical facts in its request for equitable relief, grossly misleading the Court.⁵

Second, GP has no evidence that Dr. Treff or Nucleus or anyone else “used” its purported trade secrets, and they did not. As “evidence” of use, GP cites Nucleus working with Kindbody’s IVF clinics to use Sampled to sequence embryonic DNA. (Mot. at 16-17.) GP claims that Sampled’s use of the third-party Illumina genotyping platform to sequence the DNA shows that Nucleus and Dr. Treff are

⁵ Ms. Metzgar had sent herself the documents (which she had drafted, edited, or was otherwise responsible for) because—given her personal relationship with Dr. Treff—she believed GP would fire her when it learned he was resigning, and she wanted to have them as a point of reference. (Metzgar Decl. ¶¶ 17-18.) Regardless of the reason, what matters is she did not give the documents to anyone, use them, or keep them.

using GP’s supposed “Illumina Project” trade secret in this work. (*Id.* at 16.) But this is absurd. Nucleus had been working with Sampled to sequence DNA since February 2025, *six months before* hiring Dr. Treff, (Sadeghi Decl. ¶¶ 22-24.) And Sampled’s use of Illumina to sequence DNA is that company’s own choice, reflecting its off-the-shelf genotyping services. (*Id.* ¶ 23). GP’s allegation is akin to it claiming a trade secret violation if Nucleus engaged a lab that uses Microsoft Word to produce a DNA study, because GP also uses Microsoft Word to produce their own studies.

As far as Nucleus can tell (GP’s pleadings and supporting declarations are far from clear, *see supra* Section I.A), what GP may be referencing with respect to its “Illumina Project” is GP’s software team’s work to modify GP’s software to make it compatible with the Illumina platform for DNA sequencing. (Treff Decl. ¶¶ 32-34.) If so, there is no evidence that anything connected with the “Illumina Project” was—or even could be—misappropriated by Dr. Treff or Nucleus. As noted, the work Nucleus is doing with Kindbody and Sampled long predates Dr. Treff’s hire and involves Sampled’s own decision to employ the Illumina platform; the work has nothing to do with software modification. Moreover, Dr. Treff has no software or coding expertise; he was not part of GP’s software team designing the Illumina Project and has no trade secret or confidential information about its design or inner-workings. (*Id.* ¶ 34.) What’s more, the “Illumina Project” would be of no value to

Nucleus, since it is not a PGT lab and could not employ the software GP is designing.
(*Id.* ¶ 67.)

Third, perhaps recognizing it has no evidence of actual trade secret “use,” GP resorts to the theory of “inevitable disclosure” to claim threatened misappropriation. (Mot. at 19-20.) This requires GP to demonstrate “that there is a sufficient likelihood of inevitable disclosure of its trade secrets to a competitor.” *Sunbelt Rentals, Inc.*, 2021 WL 82370, at *25 (D.N.J. Jan. 11, 2021).

GP cannot do so. To begin with, GP and Nucleus are not “competitors.” GP (a PGT wet lab) provides different but complementary services than Nucleus (a software company) within the genetic fertility industry. (Sadeghi Decl., ¶ 30.) In partnership with PGT wet labs like GP, Nucleus builds off the work performed at the PGT lab stage, to prepare its separate genetics report that addresses characteristics that are not captured through traditional PGT testing conducted by PGT labs. (*Id.*, ¶¶ 8, 14-19, 45.) Accordingly, even if Dr. Treff possessed GP’s trade secrets—and as explained above, he does not—he would not “inevitably disclose” them to Nucleus in connection with his work.

Moreover, the cases that find inevitable disclosure rest their findings on the fact that the employee at issue took to a competitor the trade secrets of the former employer, which, suggests that the employee, will, in fact, inevitably disclose or use them. *See, e.g. Sunbelt Rentals*, 2021 WL 82370, at *26 (D.N.J. Jan. 11, 2021)

(finding inevitable disclosure where defendant copied employer's confidential information before resigning and then forwarded them to himself and other third parties); *Acteon, Inc. v. Harms*, 2020 WL 6694411, at *5-*6, *10 (D.N.J. Nov. 6, 2020) (finding inevitable disclosure where employee emailed multiple trade secret documents from his employer before resigning and still possessed them).

As discussed above, there is no evidence that Dr. Treff took any GP documents with him when he left GP, or that he has any such documents in his possession—the only evidence is that he *does not* possess them (and he does not). GP cites no cases finding inevitable disclosure on such facts, because there are none.

In sum, GP has failed to adequately demonstrate misappropriation under any theory (retention, use, or “inevitable disclosure”). It therefore cannot succeed on the merits of its trade secret claims, and the Motion should be denied.

B. GP's Contract Claims Fail

1. *The NCA is Overbroad and Dr. Treff's Employment With Nucleus Does Not Violate It*

GP also will not succeed on the merits of its breach of contract claim. GP claims that Dr. Treff has violated his Non-Competition, Confidential Information, and Invention Assignment Agreement (“NCA”) by “(i) providing services to Nucleus, who is actively competing with GP; and (ii) using relationships developed at GP in the interest of later competition on behalf of Nucleus.” (Mot. at 21.)

This claim fails because (i) the NCA is overbroad and unenforceable under New Jersey law and (ii) Dr. Treff's work for Nucleus does not violate the NCA in any event.

a. The NCA is Overbroad and Unenforceable

In determining whether a noncompete is overbroad, courts consider "its duration, the geographic limits, and the scope of activities prohibited." *The Cmty. Hosp. Grp., Inc. v. More*, 869 A.2d 884, 897 (N.J. 2005). "Each of those factors must be narrowly tailored to ensure the covenant is no broader than necessary to protect the employer's interests." *Id.* A covenant that is unreasonably overbroad may be "disregarded." *Id.*

Here, the NCA is absurdly overbroad and cannot be enforced. GP claims Dr. Treff's employment with Nucleus violates Sections 6.0, 6.1, and 6.3 of the NCA. Section 6.0 states that "Employee agrees not to use relations developed prior to leaving the Company in the interests of later competition against the Company." (NCA, § 6.0). Section 6.1 states that for 18 months, "Employee shall not . . . engage in or have a financial interest in, any business which is competitive with the business of the Company, where Employee has been involved in developing relationships to this competitor prior to leaving the Company[.]" (*Id.*, § 6.1.) And section 6.3 provides that "Employee agrees to not engage in competing business engaging with or involving any practice, lab, or provider of IVG, PGS, or Reproductive Health with

which he has developed relations prior to his leaving his sensitive founder position within the Company.” (*Id.*, §6.3.)

Even a cursory glance at these provisions makes clear GP’s unlawful overreach with respect to ***all three*** of the *More* factors. Section 6.1 lasts 18 months while 6.0 and 6.3 contain no temporal limitation—they purport to restrict Dr. Treff’s employment ***for the rest of his life***. Their “duration” (or lack thereof) is therefore wildly overbroad. *More*, 869 A.2d at 897.

Further, none of the clauses GP claims Dr. Treff has violated contains any geographic limitation—they purport to prohibit Dr. Treff from working for a putative competitor ***anywhere on the planet***. This sort of unlimited geographic scope has been held overbroad and unenforceable under New Jersey law. *See, e.g., Trading Partners Collaboration, LLC v. Kantor*, 2009 WL 1653130, at *6 (D.N.J. June 9, 2009) (denying TRO and holding noncompete unenforceable due in part to overbroad geographic scope); *Stonhard, Inc. v. Carolina Flooring Specialists, Inc.*, 621 S.E.2d 352, 354 (S.C. 2005) (holding under New Jersey law that a noncompete that lacked a geographic scope was overbroad and unenforceable).

Moreover, none of the sections upon which GP relies has any limit on the scope of activities prohibited. Each purport to restrict Dr. Treff’s employment in ***any capacity***. On its face, the agreement would prohibit Dr. Treff from working for a “competitor” even as a janitor. Here, too, courts refuse to enforce noncompetes

under New Jersey law with similarly unlimited scopes. *See Kantor*, 2009 WL 1653130, at *6 (“This Court finds that the geographical restrictions of the Agreement and the scope (or lack thereof) of the activities restricted, pursuant to the Agreement, place an undue burden on the Defendant.”).

The NCA is also unenforceable because enforcement would in effect require ordering that Dr. Treff be fired, which would impose an undue hardship on Dr. Treff. To be enforceable in New Jersey, a noncompete must “impose no undue hardship on the employee.” *More*, 869 A.2d at 898. “[T]he reason for the termination of the parties’ relationship” is relevant to the hardship inquiry. *Id.* “[W]here the employer causes the parties to separate, ‘enforcement of the covenant may cause hardship on the employee which may fairly be characterized as ‘undue’ in that the employee has not, by his conduct, contributed to it.’” *Id.* (citation omitted).

In this regard, an employer “causes the parties to separate” where the employee’s resignation was prompted by a “reasonable uncertainty of future job security” caused by the employer. *See Marinelli v. Medco Health Sols., Inc.*, 951 F. Supp. 2d 303, 321–22 (D. Conn. 2013) (applying New Jersey law). If the employer’s actions caused an employee to resign, courts have held that it would be unfair and inequitable to enforce a noncompete against the employee. *Id.* (denying preliminary injunction and holding noncompete was unenforceable on undue hardship grounds law where employee resigned due to fear of layoffs and threatened salary cuts).

That is just what occurred here. Dr. Treff was a dedicated employee of GP, having worked there from its inception. However, starting in 2025, GP began taking actions and that were designed to push him out of the company and left his job security “reasonably uncertain[.]” (Treff Decl., ¶¶ 45-51) These actions included threatening to lay off members of his team, threatening to cut his base salary, and then effectively cutting his pay by \$63,000 when it withdrew a stipend Dr. Treff had been receiving for living expenses that had been part of Dr. Treff’s compensation package. (*Id.*, ¶ 51) GP’s CEO was also unprofessional and abusive, calling Dr. Treff a “liar,” “asshole,” “stupid in life,” “rude, antagonistic, childish, and backstabbing” and “a horrendous partner.” (*Id.* ¶ 50.) In the face of these adverse job actions and abuse, Dr. Treff was compelled to resign rather than continue to work in the hostile environment GP deliberately created. Having driven Dr. Treff from his job, GP should not now be permitted to invoke this Court’s equitable powers to order that he be fired from his new employer.

b. Dr. Treff’s Employment With Nucleus Does Not Violate the NCA

Even if the NCA were enforceable (and it is not), GP’s contract claims based on the noncompete still fail because Dr. Treff’s employment with Nucleus is not a violation. The NCA only prohibits working for a “competitor.” (NCA, § 6.1a; *see id.* § 6.0 (broadly prohibiting using “relations” in “competition” with GP); § 6.3 (broadly prohibiting engaging in “competing business”). GP and Nucleus are neither

“competitors” nor in “competition” with each other. The NCA does not define “competitor,” but the dictionary definition is “[p]ersons *endeavoring to do the same thing* and each offering to perform the act, furnish the merchandise, or render the service better or cheaper than his rival.” Black’s Law Dictionary, 5th ed., p. 257 (emphasis added).

Nucleus and GP do not do “the same thing”—far from it. As explained above, GP is a wet lab that performs genome tests on embryo samples and Nucleus is a software company that analyzes data from those test results. (Treff Decl., ¶¶ 35-39.) Far from competitors, they are active business partners, as made clear by their work together under the Marketing Agreement, which is *still* in effect. (*Id.*, ¶¶ 40-44.)

The NCA itself makes clear that GP does not consider Nucleus a competitor. Dr. Treff’s NCA signed lists seven entities GP designated as competitors—*none of which are Nucleus and none of which are software companies like Nucleus or companies that do what Nucleus does*. (NCA, § 6.3.2.)⁶ While this list purports to be nonexhaustive, if GP truly believed Nucleus was a competitor, it would have included the company on their list, or at least included companies similar to Nucleus as among those it believed compete. The fact that it has not underscores the simple

⁶ These companies are (1) CooperSurgical; (2) iGenomix; (3) Reprocare; (4) Colorado Center for Reproductive Medicine; (5) Illumina; (6) Life/Thermo/Fisher; and (7) RMA. (Treff Decl. ¶ 18.)

reality that GP and Nucleus ***do not compete***. Accordingly, Dr. Treff's employment with Nucleus does not violate the NCA.

2. *The Remaining Contract Claims Also Fail*

GP also asserts that Dr. Treff violated the NCA by purportedly (1) failing to return GP's documents; (2) retaining GP's confidential information/trade secrets; (3) misappropriating GP's confidential information/trade secrets; (4) failing to provide records upon his departure; and (5) deleting information. (Mot. at 20.)

These claims all fail. ***First***, as discussed above, GP has no evidence that Dr. Treff misappropriated or retained GP's confidential information or trade secrets, (*see supra* Section 1.A.2), and he did not. ***Second***, GP does not explain what "records" Dr. Treff failed to provide upon his departure, and there are none. ***Third***, even if Dr. Treff reset his laptop before returning it, causing some GP documents to be deleted, this would not be a basis for injunctive relief because the data has been deleted and an injunction cannot prevent an act that has already occurred. *See Korean Am. Chamber of Com. U.S.A. LLC v. Overseas Korean Agency*, 2023 WL 7126447, at *4 (D.N.J. Oct. 30, 2023). Moreover, all of the material on Dr. Treff's laptop exists on GP's network so nothing has been lost (Treff Decl. ¶ 55); therefore, GP cannot establish damages, an essential element of a contract claim. *See Globe Motor Co. v. Igdalev*, 139 A.3d 57, 64 (N.J. 2016).

Finally, with respect to Ms. Metzgar, GP's claim rests entirely on her purportedly emailing herself certain documents (none of which are confidential or trade secrets (Metzgar Decl. ¶¶ 8-16)) and it cites no evidence suggesting any other wrongdoing. Even if she sent this email, it cannot form the basis of injunctive relief since this occurred months ago and can't be "unsent." *See Overseas Korean Agency*, 2023 WL 7126447, at *4. Moreover, GP alleges no damage as a result of the email. Nor could it, because in August, Ms. Metzgar deleted the email in GP's presence and confirmed she did not retain it (and she did not retain it) (Metzgar Decl., ¶¶ 22-26), so GP cannot establish the essential element of damages. *See Igdalev*, 139 A.3d at 64. Moreover, Ms. Metzgar has never worked for Nucleus and therefore her alleged conduct cannot form the basis for an injunction against Nucleus or Dr. Treff.

In sum, GP will be unable to succeed on the merits of any of its contract claims. The Court should deny injunctive relief on these claims.

II. THERE IS NO IRREPARABLE HARM

A. GP's Delay Precludes A Finding of Irreparable Harm

If the Defendants' alleged violations presented a risk of imminent, irreparable harm, GP could have, and would have, applied for a TRO months ago. Instead, it sat on its hands for over two months, only now asking the Court for an "emergency" ruling on its claims. GP's delay proves there is no irreparable harm, and the Motion should be denied for this reason alone. GP's own pleadings and contemporaneous

communications make clear that by **August 20, 2025**, it knew the following facts it now claims merit emergency relief: (1) Dr. Treff had resigned, deactivated his Ring account,⁷ “wiped” his computer before turning it in, and looked at a purported “confidential spreadsheet”⁸ before he quit; (2) he took a job with Nucleus as Chief Clinical Officer where he would be working on “IVF+”—**and GP knows this because it had input into Nucleus’ contemporaneous press release announcing his hire**; (3) Ms. Metzgar emailed GP documents to her personal email account and GP fired her for doing so (Compl. ¶¶ 123-126, 129-130; 132; 137-138; 140; Sadeghi Decl., ¶ 53 Ex. 5.)

On August 20 and again on August 27, GP’s counsel sent letters to Nucleus and Dr. Treff complaining about all of the foregoing and threatening a lawsuit to

⁷ In a desperate attempt to ascribe wrongdoing to Dr. Treff where none exists, GP misleadingly complains that when Dr. Treff resigned he “deleted the video footage from GP’s laboratory security cameras.” (Mot. at 18.) In fact, what GP actually is claiming is that Dr. Treff cancelled the subscription for the Ring camera service (Compl. ¶129), which he did when he resigned because he had been personally paying for the service and he was not going to continue paying for it after his employment ended, especially because he had already incurred over \$23,000 in approved business expenses that GP failed to reimburse. (Treff Decl. ¶¶ 58-59.)

⁸ GP complains that Dr. Treff accessed a spreadsheet called “Direct Labor Costs v. Sampled” before he resigned (Mot. at 18). Dr. Treff recalls looking at a spreadsheet (which may be the one GP is referring to) that referenced the salaries of non-essential employees (like Ms. Ketterson’s sister), which he intended to address in a resignation letter that he ultimately did not send. He looked at this document once for that limited purpose, then closed it and never reviewed it again. (Treff Decl. ¶ 52.)

being the very claims it has now asserted. (Sadeghi Decl. ¶ 57; Compl. ¶¶138-139.)

In the August 27 letter, GP *even threatened to issue a press release* announcing that GP was suing Nucleus, Dr. Treff, and Metzgar. (Sadeghi Decl., ¶ 57.) Nucleus’s counsel replied on August 28, explaining that any such legal action would be meritless (which was prescient, it turns out). (*Id.* ¶ 58.) GP did not respond or take any action until filing its Complaint on October 22, 2025, *over two months* after knowing the entire factual basis for its alleged legal claims. The timing of its Motion also smacks of bad faith and gamesmanship, as GP waited to file it until 4:20 pm on the Friday afternoon before the annual Scientific Conference and Expo (the largest professional event in the reproductive and fertility industry), which Dr. Treff and Nucleus’ top executives including Mr. Sadeghi and Mr. Lanter were attending, and GP then issued a press release announcing the lawsuit. (*Id.* ¶ 59).

To the extent GP will argue that “new” facts exist that justify its failure to act sooner, this does not withstand the slightest scrutiny. Presumably, GP will contend that it only learned in October (via the misaddressed emails it cites) that Nucleus was working with Kindbody and using Sampled to sequence embryonic DNA. (Mot. at 16-17.) But the fact that Dr. Treff was working with Nucleus in its embryonic DNA analysis and using third party labs to do so (Nucleus always does so as it has no wet lab) was well known to GP since August, when Nucleus told GP’s CEO that Dr. Treff would be working for it on its “IVF+ project.” (Sadeghi Decl. ¶ 53, Ex.

5.) Indeed, the SOW3 that GP now misleadingly suggests is some sort of a “smoking gun” merely reflects Sampled’s standard, boilerplate agreement for off-the-shelf services, and the SOW itself references a Master Services Agreement between Sampled and Nucleus dated **February 27, 2025** (*Id.* ¶ 23, Ex. 2)), making clear that Nucleus had been working with Sampled for months before it hired Dr. Treff in August. Accordingly, any attempt by GP to argue that the October emails excuse its delay in seeking injunctive relief is specious.

These facts make clear that GP has unreasonably delayed and that there is no irreparable harm. “Where a Plaintiff delays in seeking preliminary injunctive relief, such delay is evidence that speedy relief is not needed.” *EMSL Analytical, Inc. v. Testamerica Analytical Testing Corp.*, 2006 WL 892718, at *12 (D.N.J. Apr. 4, 2006). Indeed, “[m]any courts have found that a delay of just weeks or months precludes a showing of irreparable harm.” *H-1 Auto Care, LLC v. Lasher*, 2022 WL 13003468, at *4 (D.N.J. Oct. 21, 2022).

That is precisely the case here. GP’s over two-month delay—during which it knew all of the facts it now asserts and even threatened a press release announcing a lawsuit—makes clear there is no irreparable harm and that GP is not entitled to the equitable relief it now seeks. *See Commc’ns Workers of Am. v. Alcatel-Lucent USA Inc.*, 2015 WL 7573206, at *3 (D.N.J. Nov. 25, 2015) (denying TRO based on applicants’ two-month delay); *see also Novartis Servs., Inc. v. Feire*, 2024 WL

4839767, at *7 (D.N.J. Nov. 20, 2024) (four-month delay); *Wurth USA, Inc. v. Thompson*, 2021 WL 5866899, at *1 (D.N.J. Dec. 10, 2021) (Wigenton, J.) (four-month delay). Based on this delay alone, the Court should deny the Motion.

B. GP Has Not Shown Irreparable Harm in Any Event.

Leaving aside GP’s unreasonable delay, on the merits GP has failed to show irreparable harm. “Irreparable harm cannot be presumed.” *US LBM Operating Co.*, 2023 WL 8432733, at *5. Instead, the moving party must make a “clear showing of immediate irreparable injury.” *Acierno v. New Castle Cnty.*, 40 F.3d 645, 655 (3d Cir. 1994). Because GP is seeking a mandatory injunction altering the status quo in the form of a court order that Nucleus fire Dr. Treff, GP’s bears an even “higher standard of showing irreparable harm in the absence of an injunction” than in a case seeking merely to preserve the status quo. *Bennington Foods LLC v. St. Croix Renaissance, Grp.*, LLP, 528 F.3d 176, 179 (3d Cir. 2008).

GP’s lack of irreparable harm is made plain by the fact that it has barely attempted to make such a showing. It spends less than one page of its 32-page brief on the issue, merely asserting that it will suffer irreparable harm because (1) Dr. Treff and Ms. Metzgar’s NCA agreements contain clauses stating that in the event of a breach GP would suffer irreparable harm; and (2) Dr. Treff and Ms. Metzgar allegedly misappropriated its trade secrets. (Mot. at 27.)

Both of these arguments are easily dispensed. *First*, it is well-settled that a

boilerplate contractual provision reciting the existence of irreparable harm like the one in the NCAs does not suffice to show that irreparable harm, in fact, exists. *See Ethicon, Inc. v. Randall*, 2021 WL 2206106, at *25 (D.N.J. May 28, 2021) (rejecting contention that contractual provision stating “that any violation of the Agreement causes Plaintiffs irreparable harm” sufficed to establish irreparable harm); *Great Caesars Ghost LLC v. Unachukwu*, 2019 WL 1515156, at *2 (D.N.J. Feb. 19, 2019) (same); *Exec. Home Care Franchising LLC v. Marshall Health Corp.*, 2015 WL 1422133, at *3 (D.N.J. Mar. 26, 2015). Accordingly, GP’s reliance on the NCA’s boilerplate to demonstrate irreparable harm fails.

Second, GP’s claim that it has suffered irreparable harm because Defendants have misappropriated their alleged trade secrets likewise fails because as shown above, GP has failed to establish either protectable trade secrets or any misappropriation. (*See supra* Section I.A). Without evidence of trade secrets and misappropriation, GP cannot rely on such “misappropriation” to establish irreparable harm. *See, e.g., US LBM Operating Co.*, 2023 WL 8432733, at *5 (D.N.J. Dec. 5, 2023) (holding that plaintiffs cannot rely on alleged misappropriation to show irreparable harm because they “have failed to adequately identify the allegedly misappropriated trade secrets”).

Moreover, GP cannot establish irreparable harm because any alleged harm can be redressed by money damages following a trial. *See Reilly v. City of*

Harrisburg, 858 F.3d 173, 179 n.4 (3d Cir. 2017) (“the availability of money damages for an injury typically will preclude a finding of irreparable harm”). GP vaguely alleges that as a result of the purported “misappropriation” it has suffered lost profits and expended costs that it is entitled to recover from Defendants. (Compl. ¶¶ 167, 176.) But these alleged harms would be fully redressable by an award of money damages; they are therefore not “irreparable” and cannot form the basis for equitable relief. *See Frank’s GMC Truck Ctr., Inc. v. Gen. Motors Corp.*, 847 F.2d 100, 102 (3d Cir. 1988) (finding no irreparable harm because claim of lost sales, customers, and profits can be redressed by damages and the “availability of adequate monetary damages belies a claim of irreparable injury”).

Finally, GP’s claim of irreparable harm purportedly caused by Dr. Treff’s employment with Nucleus falls particularly flat given that following his resignation, GP engaged Dr. Treff as an interim CSO pending the hire of his successor. By August 20, GP knew that Nucleus had hired Dr. Treff to be its Chief Clinical Officer (Sadeghi Decl., ¶ 53, Ex. 5), and having full knowledge of his concurrent employment in that role at Nucleus, it kept him on as a consultant until **September 2**, and then only terminated the engagement not because he was working for a purported “competitor” in a position that could irreparably harm GP, but because he supposedly was “difficult to work with.” (Compl. ¶135; Treff. Decl. ¶¶ 62-65.) For GP to now ask the Court to invoke its equitable powers and order that Dr. Treff be

fired based on irreparable harm is especially absurd.⁹

III. GP IS NOT ENTITLED TO EXPEDITED DISCOVERY

For similar reasons, the Court should deny GP's request for expedited discovery. To be entitled to expedited discovery, the moving party must satisfy each of the following factors: "(1) irreparable injury, (2) some probability of success on the merits, (3) some connection between the expedited discovery and the avoidance of the irreparable injury, and (4) some evidence that the injury that will result without expedited discovery looms greater than the injury that the defendant will suffer if the expedited relief is granted." *US LBM Operating Co.* 2023 WL 8432733, at *5. As shown above, GP fails to establish any likelihood of success on the merits or irreparable harm, and accordingly, fails to establish any entitlement to expedited discovery. *Id.* Moreover, such discovery is unnecessary, in light of this Opposition Nucleus has submitted lengthy declarations that respond to the inquiries set forth in the proposed discovery GP submits. Accordingly, GP's request should be denied.

CONCLUSION

For all the foregoing reasons Defendants respectfully submit that GP's Motion be denied in its entirety, with prejudice, and grant Defendants such further relief as the Court deems appropriate.

⁹ Because GP has failed to establish irreparable harm or likelihood of success on the merits, it is not entitled to an injunction and the court need not address the remaining injunctive-relief factors. *See NutraSweet*, 176 F.3d at 153 ("A plaintiff's failure to establish any element in its favor renders a preliminary injunction inappropriate.").

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New York, New York

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2025, I caused a true and correct copy of the foregoing to be filed with the Court, and a copy will be served upon all Parties of record, via CM/ECF.

By: /s/ Matthew F. Bruno
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