

privileged. 5 U.S.C. § 552(b)(4). In keeping with its placement in the statutory sequence, the exemption is commonly known as Exemption 4.

3. The Toxic Substances Control Act (TSCA) has its own FOIA provisions. With a few narrow exceptions, TSCA largely prohibits disclosure of information that is exempt from disclosure under FOIA Exemption 4. *See* 15 U.S.C. § 2613(a). Relevant here, the person submitting the information must additionally assert that disclosure of the information would likely cause competitive harm. *See id.* § 2613(c)(1)(B)(iii). This burden is not onerous: Information is entitled to protection as long as there is a “reasonable basis to conclude” that substantial competitive harm is “likely.” *Id.*; *see also* 40 C.F.R. §§ 703.7(f)(4), 703.8(e).

4. Plaintiff Inhance is a small, Texas-based company that serves a critically important function in the national supply chain. Inhance fluorinates plastic containers. Fluorinating plastic imparts what is known as “barrier protection” to the container, keeping volatile or dangerous substances inside and keeping the outside environment out. Inhance fluorinates more than one hundred million containers a year, and industries like healthcare, crop protection, and outdoor power equipment all depend on Inhance’s fluorination process to allow their products to be safely stored and marketed.

5. Inhance has been fluorinating containers for more than four decades. Several years ago, Inhance and EPA learned that the fluorination process has the potential to unintentionally create minute amounts of long-chain per- and polyfluoroalkyl substances, or PFAS, in the articles (i.e., containers) Inhance treats. That discovery kicked off a spate of EPA regulatory and litigation activity centered on Inhance—at times at the behest of two environmental nongovernmental organizations: Public Employees for Environmental Responsibility (PEER) and the Center for Environmental Health (CEH).

6. In the midst of these regulatory and litigation actions, EPA initiated an enforcement action against Inhance under Section 5 of TSCA. As part of EPA's information-gathering process, as a prelude to the filing of its enforcement action, Inhance was required to disclose a treasure trove of Inhance's confidential business information to the agency. On judicial review, the Fifth Circuit found that EPA lacked the statutory authority to pursue Inhance under Section 5 because its fluorination process did not constitute a "new use."

7. Fast forward to the present dispute. In response to a FOIA request brought by PEER and CEH, EPA rejected Inhance's request to withhold highly confidential test data generated through its proprietary research and development program, which Inhance had submitted (under protest) to EPA during the Section 5 administrative process. This research and development program, which was funded entirely by Inhance, resulted in a highly successful enhancement of Inhance's fluorination process that reduces potential PFAS formation, and such process enhancements were subsequently deployed to each of Inhance's treatment facilities. Because public disclosure of Inhance's confidential information would work a significant competitive harm to Inhance, Inhance brings this action to restrain release of that information and to enforce its rights under the TSCA FOIA provisions and FOIA Exemption 4.

PARTIES

8. Plaintiff Inhance is a limited liability company organized in Delaware with its principal place of business at 22208 North Berwick Drive, Houston, TX 77095.

9. Defendant Lee Zeldin is the Administrator of EPA and is responsible for administering and enforcing TSCA and fulfilling EPA's obligations under FOIA. Defendant Zeldin maintains an office at 1200 Pennsylvania Avenue N.W., Washington, D.C., 20460.

JURISDICTION AND VENUE

10. This Court has jurisdiction under the following statutes:
 - a. 28 U.S.C. § 1331 because this civil action arises under the laws of the United States;
 - b. 28 U.S.C. § 1346(a)(2) because Inhance asserts claims against the United States;
 - c. 28 U.S.C. § 1361 because this is an action to compel officers of the United States to perform their duties;
 - d. 28 U.S.C. §§ 2201–02 because this is an actual, justiciable controversy as to which Inhance requires a declaration of its rights by this Court and injunctive relief to prohibit Defendants from violating laws and regulations; and
 - e. 15 U.S.C. § 2613(g)(2)(D)(i) because this is an action to restrain disclosure of confidential business information.

11. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1)(A) because this is a civil action in which Defendant is an officer of the United States acting in his official capacity and resides in this judicial district.

FACTUAL BACKGROUND

I. Statutory and Regulatory Background

12. This case arises at the intersection of two federal statutes: FOIA and TSCA.

13. FOIA imposes certain disclosure requirements on federal agencies; it generally requires government agencies to make records available to the public upon request. 5 U.S.C. § 552(a)(3)(A). However, agencies need not disclose records that fall within one of several exemptions. *See id.* § 552(b).

14. Crucially, “trade secrets and commercial or financial information obtained from a person and privileged or confidential” are exempt from the disclosure requirement. *Id.* § 522(b)(4). This exception for confidential business information is commonly referred to as FOIA Exemption 4, and it reflects Congress’s understanding that the government has an important interest in “providing private parties with sufficient assurances about the treatment of their proprietary information so they will cooperate in federal programs and supply the government with information vital to its work.” *Food Mktg. Inst. v. Argus Leader Media*, 588 U.S. 427, 440 (2019).

15. Under TSCA, EPA is authorized to regulate the manufacture, processing, and distribution of chemical substances and mixtures that may be harmful to health or the environment. Congress revisited TSCA’s scope in 2016 when it amended the statute pursuant to a set of revisions collectively known as the Lautenberg Amendments. *See* Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114–182, 130 Stat. 448 (2016) (codified at 15 U.S.C. § 2601 *et seq.*). Among other things, the amended law protects confidential business information that is submitted to EPA as part of the agency’s TSCA administration and enforcement.

16. When someone presents a FOIA request to EPA seeking to obtain information “that is reported to, or otherwise obtained by, the Administrator under” TSCA, and the request meets statutory requirements, a TSCA-specific set of procedures and protections kicks in. 15 U.S.C. § 2613(a).

17. In particular, Congress built into TSCA some protections that guard against unwarranted disclosure of confidential business information: EPA “shall not disclose information that is exempt” under FOIA Exemption 4, subject to narrow TSCA-specific

limitations. *Id.* Where applicable, those limitations narrow the scope of FOIA Exemption 4. *See id.* § 2613(b)(5).

18. Companies seeking to prevent disclosure of confidential information submitted under TSCA may do so by filing a “claim for protection” supporting their assertion that the information is confidential. *Id.* § 2613(c)(1)(A). The claim must substantiate that the business has (1) “taken reasonable measures to protect the confidentiality of the information”; (2) “determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law”; (3) “a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person”; and (4) “a reasonable basis to believe that the information is not readily discoverable through reverse engineering.” *Id.* § 2613(c)(1)(B)(i)–(iv); *see* 40 C.F.R. § 703.5(a).

19. EPA has further defined TSCA’s confidential business information provisions by regulation. *See generally* 40 C.F.R. § 703. In general, a person submitting information under TSCA must assert any confidentiality claim “concurrent with submission of the information.” *Id.* § 703.5.

20. When considering a request for information under FOIA, EPA “shall review a claim for protection” and require the claimant to “reassert and substantiate or resubstantiate the claim . . . as necessary to determine whether the information qualifies for an exemption from disclosure.” 15 U.S.C. §§ 2613(f)(2), (A); *see* 40 C.F.R. § 703.8(c)–(d).

21. EPA must keep the information confidential if six factors are met: (1) The business asserted a valid claim of confidentiality; (2) the business “has taken reasonable measures to protect the confidentiality of the information”; (3) the information is not reasonably obtainable by other legitimate means; (4) there is “a reasonable basis to conclude that disclosure

of the information is likely to cause substantial harm” to the business’s competitive position; (5) no other law denies confidential protection; and (6) the information falls within FOIA Exemption 4. 40 C.F.R. § 703.7(f); *see also id.* § 703.8(e).

22. EPA guidance recognizes that raw data qualifies as confidential business information. For example, EPA has indicated that “production volumes of chemicals . . . at a company facility” may be considered confidential business information subject to protection. EPA, *TSCA CBI Notice Questions and Answers 2* (June 2023), <https://perma.cc/9QE2-VK43>.

23. If EPA denies a claim for protection in full or in part, it must provide notice, including the reasons for denial. 15 U.S.C. §§ 2613(g)(1)(B), (2)(A). EPA must then wait thirty days after the claimant receives notice before it can disclose any information claimed to be confidential. *Id.* § 2613(g)(2)(B); *see* 40 C.F.R. § 703.8(f) (establishing that the thirty-day period begins “on the next business day following the date the notice is made available to the submitter”).

24. During the thirty-day stay, the claimant may seek judicial review of an adverse determination. *See* 15 U.S.C. § 2613(g)(2)(D)(i). If the claimant files a civil action to restrain disclosure in federal district court, EPA “shall not disclose” the information until the reviewing court resolves the litigation. *Id.* § 2613(g)(2)(D)(ii)(I). The confidential business information remains protected unless the court either “denie[s] the person’s motion for a preliminary injunction,” if one is brought, or “otherwise uph[olds] the EPA determination.” 40 C.F.R. § 703.8(g).

II. Inhance’s Fluorination Process and Confidential Business Information

25. Founded in 1983, Inhance is a small company that primarily provides barrier protection and other surface fluorination technologies that transform customers’ conventional plastic articles, like high-density polyethylene (HDPE) containers, into high-performance

materials, like packaging that allows for the transport of crop protection chemicals in commerce and fuel tanks for off-road equipment (e.g., lawnmowers, marine engines).

26. Fluorination performs an important function: It prevents the contents stored in plastic containers—like insecticides and gasoline—from being released into the environment through permeation of the container walls. Inhance’s fluorination process operates according to specified time, pressure, and temperature parameters, and such operational details are proprietary. Since it discovered the inadvertent presence of PFAS impurities in its fluorinated articles several years ago, Inhance has devoted substantial resources toward researching, developing, and implementing proprietary process enhancements that reduce the potential for PFAS formation in fluorinated containers.

27. Beginning in 2020, EPA initiated an administrative proceeding to investigate Inhance’s fluorination process under TSCA Section 5. Inhance submitted reams of confidential information to EPA as part of the agency’s review, which culminated in two December 2023 unilateral orders mandating that Inhance shut down its fluorination business. Those orders were later vacated on judicial review by the United States Court of Appeals for the Fifth Circuit, which found that EPA had no statutory authority to regulate Inhance’s fluorination process under Section 5. *Inhance Techs., L.L.C. v. EPA*, 96 F.4th 888 (5th Cir. 2024).

28. The information Inhance submitted to EPA as part of the Section 5 administrative review included sensitive business information regarding its process enhancements, research and development results and test data, and customer information. When Inhance submitted the information to EPA, it expressly designated the information as confidential business information, consistent with applicable EPA regulations. *See* 40 C.F.R. § 703.5.

III. The FOIA Dispute

29. While EPA's administrative review process unfolded, PEER submitted a FOIA request to EPA in January 2023. That request sought a number of documents and information related to Inhance and its fluorination technology. PEER's efforts were focused on discovering information about PFAS in containers fluorinated by Inhance, part of a broader public-relations and litigation campaign that PEER and CEH have been waging against the company for years.

30. A number of documents responsive to PEER and CEH's FOIA request were covered by Inhance's claims for confidential business information protection. *See* 15 U.S.C. § 2613(c)(1).

31. While EPA continued to review the request, PEER and CEH sued the agency. In a Complaint filed in this Court on February 15, 2024, PEER and CEH alleged that EPA was "wrongfully withholding requested agency documents" in violation of FOIA. *Public Emps. for Env't Responsibility v. EPA*, No. 1:24-cv-000445 (JEB) (ECF No. 1) (Feb. 15, 2024). In that lawsuit, which remains pending before Chief Judge Boasberg, PEER and CEH seek injunctive and declaratory relief ordering the release of Inhance's data and information.

32. EPA then issued a Notice of Review and requested that Inhance substantiate its confidential business information claims for the 262 documents that fell within the scope of the FOIA request. EPA initially gave Inhance just fifteen days to substantiate its claims. Due to the volume and size of the documents and the number of confidential-business-information claims in need of substantiation, Inhance requested an extension. EPA partially granted Inhance's request and set a revised deadline of October 14, 2024.

33. Inhance timely responded in accordance with the October 14 deadline, providing both narrative substantiations and an index substantiating Inhance's claims of business confidentiality for each of the 262 documents identified in EPA's notice. Of particular relevance

here are approximately 217 documents reflecting information related to Inhance’s proprietary process—test data investigating the conditions under which PFAS impurities may form during Inhance’s fluorination process. These records included reports and spreadsheets summarizing internal and third-party analytical results prepared in furtherance of Inhance’s research and development program for its fluorination process. As Inhance explained to the agency, its analysis focused on samples of actual customer products and contains proprietary information “about the nature and types” of its customers’ products.

34. In its response, Inhance explained that the data Inhance provided to EPA shows only the amount or concentrations of PFAS impurities (if present) in samples tested by Inhance as part of its proprietary research and development program. Notably, that information does not present information on the effect of PFAS on the environment or health and was not collected as part of any health or safety study. The information is properly characterized as confidential business information under FOIA Exemption 4, and nothing in TSCA requires its release.

35. Inhance also noted in its response that, following a more detailed confidentiality review, it could further narrow its claims on some of the documents and would provide updated redacted versions where possible. After working through various technical issues with EPA’s document-submission platform, Inhance submitted 66 updated sanitized records that narrowed the scope of Inhance’s original claims for protection.

IV. EPA Refuses to Protect Inhance’s Confidential Business Information

36. EPA issued a final confidentiality determination on February 28, 2025. The agency agreed that all information regarding process information, standard operating procedures for testing and sampling, and customer and customer-product information was entitled to confidentiality. However, EPA informed Inhance that it intended to release approximately 217 other records, in full or in part—most significantly test data, results, and conclusions generated

as part of Inhance’s research and development program for enhancing its proprietary fluorination process, including test data related to levels of PFAS impurities that may form in the article during fluorination under a variety of different treatment parameters. These data were contained in analytical reports and spreadsheets, and summary information was included in certain tables of contents.

37. As the sole basis for its decision, EPA asserted that Inhance had not demonstrated a likelihood that disclosure would lead to substantial competitive harm. *See* 15 U.S.C. § 2613(c)(1)(B); 40 C.F.R. §§ 703.5, 703.7. In its view, the test results alone “do not provide insight into Inhance’s research and development program,” so they “would not provide valuable insight to competitors.” EPA Response Ltr. at 5. For the same reason, EPA found that explanations and basic results from testing reflected in tables of contents were not entitled to confidentiality.

38. Additionally, EPA reasoned that because the agency had published the results of “similar testing of Inhance products,” Inhance’s own data “could not be used by competitors any more than existing publicly available test data.” EPA Response Ltr. at 5.

39. EPA also denied Inhance’s claims of confidentiality as to certain information that EPA asserted Inhance did not initially claim as confidential business information when it was submitted to EPA under TSCA. EPA’s response stated that information contained in these three records had already been produced in response to PEER and CEH’s FOIA request. EPA Response Ltr. at 6.

40. Inhance sought reconsideration at the agency. It requested that EPA reassess its determination or provide Inhance the opportunity to resubstantiate or bolster its substantiation of

claims regarding test-data confidentiality. Instead, EPA informed Inhance that it had no process for reconsideration and refused to accept any additional information or substantiation.

V. EPA's Action Is Unlawful

41. Under the APA, a court “shall hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2).

42. EPA may not disclose “trade secrets” or “privileged or confidential” business information submitted to the agency. 5 U.S.C. § 552(b); 15 U.S.C. § 2613(a). Information is confidential within the meaning of FOIA Exemption 4 when it is “treated as private by its owner and provided to the government under an assurance of privacy.” *Argus Leader Media*, 588 U.S. at 440.

43. When responding to FOIA requests for information submitted under the TSCA, EPA may require a business to “reassert and substantiate or resubstantiate” a claim for protection “to determine whether the information qualifies for an exemption from disclosure.” 15 U.S.C. § 2613(f)(2). EPA may not release confidential information that has been substantiated in response to EPA’s request. *See* 40 C.F.R. § 703.7(f) (stating that claims of confidentiality “will be approved” if the confidentiality criteria are satisfied). Substantiation requires, as relevant, “a reasonable basis” for concluding “that disclosure . . . is likely to cause substantial harm to the competitive position of the person.” 15 U.S.C. § 2613(c)(1)(B)(iii); 40 C.F.R. § 703.7(f).

44. Inhance adequately substantiated its confidentiality designations. Specifically, the disputed materials included analytical reports and test data generated in furtherance of Inhance’s research and development program. EPA Response Ltr. at 4. Access to this information would provide a competitive advantage to others in the marketplace seeking to develop their own competing technologies, causing significant harm to Inhance.

45. Over multiple years, Inhance has devoted substantial effort and made significant financial investment into research and development efforts targeted toward identifying and implementing enhancements to its fluorination processes to reduce the level of PFAS present in fluorinated containers. As part of that program, Inhance has been investigating the potential formation of PFAS impurities in Inhance's processes and testing the effectiveness of different process modifications. That analysis involves confidential testing of samples of customers' products, as well as Inhance's own samples. Inhance engages in this research and development in order to maintain its competitive advantage over competing barrier technologies.

46. Access to this testing information would allow competitors to glean useful information about Inhance's testing parameters and the degree to which Inhance has been able to reduce generation of PFAS. In light of the information's competitively sensitive nature, Inhance has closely held and maintained the confidentiality of its analytical data. *See Argus Leader Media*, 588 U.S. at 440 (explaining when information is "confidential" within the meaning of FOIA Exemption 4). Inhance's test data, results, and conclusions are electronically secured and shared internally by Inhance's Chief Executive Officer on a "need-to-know" basis. Only select members of the research and development team have access to the information. The information has not been publicly disclosed and is not otherwise available through public sources.

47. Inhance shared much of this sensitive information with EPA in response to the agency's Section 5 demands. While Inhance disputed that the agency had authority to initiate a Section 5 proceeding, EPA disagreed and opened one anyway. Under protest, Inhance provided the requested information with the expectation that the confidential information and test data would not be shared with the public.

48. Confidentiality also protects Inhance’s customers, who provided samples of their products to Inhance for testing with the expectation that the information and data obtained would not be disclosed publicly.

49. EPA guidance recognizes that raw data qualifies as confidential business information. For example, EPA has indicated that “production volumes of chemicals . . . at a company facility” may be considered confidential business information subject to protection. *TSCA CBI Notice Questions and Answers* at 2 (June 2023).

50. Inhance’s fluorination process is derived from concerted, multi-year research and development efforts and provides the company with a competitive commercial advantage. Details about its fluorination process and the testing performed to evaluate improvements to the process constitute trade secrets, disclosure of which would cause the company substantial competitive harm. *See Public Citizen Health Rsch. Grp. v. FDA*, 704 F.2d 1280, 1284 n.7 (D.C. Cir. 1983) (defining a trade secret as “a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either renovation or substantial effort.”); *see also Appleton v. FDA*, 451 F. Supp. 2d 129, 142 (D.D.C. 2006) (holding information on the manufacturing process and specifications for a drug were trade secrets).

51. For all of these reasons, Inhance’s research conclusions are highly confidential, whether contained as data in spreadsheets or referenced in tables of contents. As Inhance explained to EPA, disclosure of test data and results prepared in furtherance of its research and development program would cause substantial harm to Inhance’s competitive position. *See* 40 C.F.R. § 703.7(f); *see id.* § 703.8(e). Disclosure would allow other fluorination service providers to gain valuable insight into Inhance’s methods and priorities for testing hypotheses regarding

the potential formation of PFAS impurities as well as the effectiveness of Inhance's process enhancements.

52. Moreover, such disclosure would put Inhance at a competitive disadvantage compared to competitors who offer other forms of barrier protection. The data may be used by competitors to tout differences in their own barrier process or products. *See, e.g., National Parks & Conservation Assoc. v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976) (finding competitive harm where “[d]isclosure would provide . . . valuable insight into the operational strengths and weaknesses” of a competitor).

53. Release of Inhance's proprietary information would allow competitors that provide barrier technology to improve their own processes, now that they have a known benchmark to target. Courts have consistently recognized that disclosure of this type of information represents core confidential business information and would cause harm to the disclosing party's business. *See, e.g., United Techs. Corp. v. Department of Defense*, 601 F.3d 557 (D.C. Cir. 2010) (holding disclosure of details regarding company's manufacturing and quality control processes would cause competitive harm because, once disclosed, competitors could “use the information to improve their own manufacturing and quality control systems”).

54. If Inhance's confidential business information is released, companies that provide competing barrier technologies will be motivated to refine their own manufacturing processes—using information that Inhance developed at its own expense—to reduce any unintentional formation of PFAS and compete with Inhance's technology.

55. To make matters worse, PEER and CEH have a long track record of disclosing (and distorting) information regarding Inhance's fluorination process in a way that has harmed—and will continue to harm—Inhance's business. For example, PEER and CEH used EPA

documents to craft a lawsuit they filed against Inhance in this Court several years ago, promising in that litigation to do more of the same: *Center for Environmental Health v. Inhance Technologies LLC*, No. 1:22-3819-JEB (ECF No. 12 ¶ 17) (D.D.C. Jan. 27, 2023) (“CEH will use the information submitted to EPA in SNUNs filed by Inhance, developed in EPA’s review of the SNUNs, and obtained in this litigation to determine risks to human health that inform its advocacy for additional health protections and education of the public about the risks of PFAS formation during the fluorination process.”); *see id.* ¶ 29 (same as to PEER). When this Court dismissed that action in 2023, PEER and CEH intervened in a separate enforcement action in the Eastern District of Pennsylvania, where they “filed unauthorized motions for summary judgment before the close of pleadings (much less before the close of discovery)”; the court there, when it ultimately dismissed the case, observed that PEER and CEH’s “astonishing filing included a 50-page brief, 45 pages of the most disputed-looking ‘undisputed’ material facts you’ll ever see, and well over 1,000 pages of appendices.” *United States v. Inhance Tech. LLC*, No. 5:22-cv-05055-JFM (ECF No. 103 n.1), (E.D. Pa. May 20, 2024). And just last year, PEER and CEH relied on information obtained from the now-vacated TSCA Section 5 proceedings against Inhance to file a new lawsuit against EPA under TSCA Sections 6 and 7, arguing that the perfluorooctanoic acid (PFOA) “formed during [Inhance’s] fluorination process” is “not only significant and serious but widespread.” *Center for Environmental Health v. Regan*, No. 1:24-cv-2194-JEB (ECF No. 1 ¶ 99).

56. At a minimum, Inhance has provided “a reasonable basis” to conclude that disclosure of the information would likely cause substantial harm to Inhance’s competitive position. 15 U.S.C. § 2613(c)(1)(B)(i)–(iv); *see* 40 C.F.R. § 703.5(a). Inhance articulated several

reasons for why disclosure of its sensitive data would be likely to cause substantial harm to its competitive position.

57. For all of these reasons, Inhance will be injured if its confidential information is released by EPA. An order from this Court directing EPA to maintain Inhance's information as confidential would redress those injuries. However, whether the release of this information would "cause substantial harm to the competitive position of the submitter" is *not* a required element to determine whether the information meets Exemption 4. *Argus Leader Media*, 588 U.S. at 436. Instead, "where commercial or financial information is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy, the information is 'confidential' within the meaning of Exemption 4" and therefore qualifies for protection under FOIA. *Id.* at 440. That is assuredly the case here, and Inhance's confidential business information should be treated accordingly.

58. In denying confidential protections to Inhance's confidential information, EPA violated its own governing statute and regulations. The agency erroneously determined that Inhance's proprietary research and development data, results, and conclusions were not entitled to confidentiality based only on finding that there was *no reasonable basis* for concluding that disclosure of Inhance's information was likely to cause substantial competitive harm. While Inhance strenuously disagrees with EPA's conclusion, EPA's finding failed to apply the standard set forth in FOIA Exemption 4, TSCA, and EPA's regulations, which provide that EPA protect from disclosure information that contains any trade secrets or commercial or financial information that is confidential or privileged.

59. PEER and CEH (although notably not EPA) have taken the view that the withheld information may constitute health and safety studies, which are governed by 15 U.S.C.

§ 2613(b)(2). But the meaning of “health and safety studies” under the statute has a limited reach, as recent D.C. Circuit precedent establishes. When Congress decided in favor of releasing “health and safety studies,” it adopted a statutory term that “refers only to the evaluation of a chemical’s health and environmental effects, not the entire document containing that evaluation.” *Environmental Def. Fund v. EPA*, 124 F.4th 1, 11 (D.C. Cir. 2024); *see also id.* (“Information that is not part of an evaluation of a chemical’s effects or that does not form the basis of that evaluation is not part of a health and safety study.”). This “limited definition” of a health and safety study thus “allows the public to access data and analysis regarding a chemical’s effects, while protecting other sensitive information that happens to be in the study document.” *Id.* at 12.

60. In other words, research data and results that do not evaluate health and environmental effects fall outside of the definition of “health and safety” under the statute. That data and information is entitled to confidentiality, provided the information falls within the bounds of FOIA Exemption 4 and the business submitting the information satisfies certain procedural requirements. See 15 U.S.C. § 2613(a), (c).

61. For all of these reasons, EPA’s decision to disclose Inhance’s confidential information was arbitrary, capricious, and contrary to law.

COUNT I
(Administrative Procedure Act, 5 U.S.C. §§ 700, *et seq.*)

62. Inhance realleges, reasserts, and incorporates by reference herein each of the foregoing allegations as though set forth fully herein.

63. EPA’s failure to adhere to its governing statute and regulations is unlawful.

64. EPA’s final confidentiality determination and decision to disclose Inhance’s research and development data is final agency action reviewable under 5 U.S.C. § 704 and 15

U.S.C. § 14(g)(2)(D). Inhance has responded to all EPA requests to substantiate confidentiality, including by providing meticulous written justifications to support its claims for protection from disclosure, and has exhausted all available administrative remedies.

65. Under FOIA, confidential business information is exempt from disclosure in response to third-party requests for records. 5 U.S.C. § 552(b)(4). TSCA also guarantees that confidential business information within the meaning of FOIA Exemption 4 will not be disclosed, as long as the claimant has satisfied TSCA's requirements for substantiation. 15 U.S.C. § 2613(a).

66. Inhance's research and development data, findings, and conclusions are exempt within the meaning of FOIA Exemption 4 and satisfy all requirements for protection from disclosure under TSCA.

67. EPA acted arbitrarily and capriciously and contrary to law when it found that there was *no reasonable basis* to conclude that disclosure of Inhance's sensitive and confidential data obtained through its research and development program would cause substantial harm to its competitive position. Accordingly, EPA's decision to release Inhance's information violates the APA. 5 U.S.C. § 706.

PRAYER FOR RELIEF

For the foregoing reasons, Inhance prays for the following relief:

- A. A declaration pursuant to 28 U.S.C. § 2201 that Inhance's confidential business information—including test data investigating the conditions under which PFAS impurities may form during Inhance's fluorination process, as well as reports, spreadsheets, and other records containing its confidential research and development data, findings, and conclusions—is exempt from disclosure under 5 U.S.C. § 552(b) and 15 U.S.C. § 2613(a);

- B. A declaration that Inhance's research and development data, findings, and conclusions contain confidential information that, if released by EPA, would cause Inhance substantial competitive harm;
- C. A declaration that EPA's decision to release its research and development data, findings, and conclusions is unlawful, arbitrary, and capricious;
- D. Injunctive relief preventing EPA from publicly releasing or disclosing the information in question;
- E. An order awarding Inhance its costs, expenses, and attorneys' fees incurred in these proceedings pursuant to 28 U.S.C. § 2412; and
- F. Such other and further relief as the Court deems proper.

Dated: April 2, 2025

Respectfully submitted,

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CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<p>I. (a) PLAINTIFFS Inhance Technologies LLC</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANTS Lee Zeldin, in his official capacity as Administrator of the Environmental Protection Agency</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
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<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Susan M. Cook Hogan Lovells US LLP 555 Thirteenth Street, NW Washington, DC 20004 Tel: (202) 637-6684</p>	<p>ATTORNEYS (IF KNOWN)</p>
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<p>II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input checked="" type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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<p><input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil</p>			
<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)</p>	<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 462 Naturalization Application</p>	<p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Plaintiff challenges, under 15 U.S.C. § 2613, EPA's decision to release confidential business information.

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form
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DATE: April 2, 2025	SIGNATURE OF ATTORNEY OF RECORD: /s/ Susan Cook
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia



Inhance Technologies LLC

Plaintiff(s)

v.

Lee Zeldin, in his official capacity as Administrator of the Environmental Protection Agency

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Lee Zeldin, Administrator, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Susan Cook, Hogan Lovells US LLP, 555 Thirteenth Street, NW, Washington, D.C. 20004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: 04/02/2025

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia



Inhance Technologies LLC

Plaintiff(s)

v.

Lee Zeldin, in his official capacity as Administrator of the Environmental Protection Agency

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Susan Cook
Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, D.C. 20004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

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Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
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I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

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Server's signature

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Additional information regarding attempted service, etc:

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UNITED STATES DISTRICT COURT

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District of Columbia



Inhance Technologies LLC

Plaintiff(s)

v.

Lee Zeldin, in his official capacity as Administrator of the Environmental Protection Agency

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Edward R. Martin, Jr. United States Attorney for the District of Columbia United States Attorney's Office 555 4th Street, NW Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Susan Cook Hogan Lovells US LLP 555 Thirteenth Street, NW Washington, D.C. 20004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: 04/02/2025

Signature of Clerk or Deputy Clerk

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Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: