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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

L & L SITE SERVICES, INC., Plaintiff, v. REPUBLIC SERVICES OF MONTANA, A/B/N OF ALLIED WASTE SERVICES OF NORTH AMERICA, LLC, Defendant.	Cause No. _____ <i>COMPLAINT</i>
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Plaintiff L & L Site Services, Inc. ("L & L") states for its complaint against Defendant Republic Services of Montana, a/b/n of Allied Waste Services of North America, LLC ("Republic"), as follows:

PARTIES

1. L & L is a Montana corporation with its principal place of business in Gallatin County, Montana.

2. Republic is a Delaware limited liability company with its principal address in Arizona that does business in Montana and, without limitation, in Missoula County, Montana.

JURISDICTION AND VENUE

3. The foregoing paragraphs are incorporated by reference.

4. This is an action for injunctive relief, monetary damages and attorney's fees under the federal antitrust laws, 15 U.S.C. § 1 et seq., and the Montana Unfair Trade Practices Act, § 30-14-201, MCA, to restrain and remedy Republic's anticompetitive conduct.

5. Jurisdiction over this action is conferred on this Court by 15 U.S.C. §§ 15 and 26, 28 U.S.C. §§ 1331 and 1337, and 28 U.S.C. § 1367.

6. Venue is proper in this Court under 15 U.S.C. § 15(a) because Republic can be found in this district, and under 28 U.S.C. § 1391 and L.R. 1.21(c)(5) because Republic is subject to personal jurisdiction in this district and

because a substantial part of the events or omissions giving rise to L & L's claims occurred in Missoula County.

ALLEGATIONS COMMON TO ALL COUNTS

7. Republic Services of Montana, a/b/n of Allied Waste Services of North America, LLC is a part of Republic Services, the second largest waste management company in the United States. It operates in at least 40 states or U.S. territories.

8. Republic owns and operates the only landfill in Missoula County.

9. Republic has a monopoly over landfill services in Missoula County.

10. Republic utilizes its own Missoula landfill's services, over which it enjoys a monopoly, to dispose of trash hauled by Republic for its regulated trash hauling services in Missoula County.

11. Until recently, Republic has had a monopoly over all regulated trash hauling services in Missoula County.

12. In addition to being a monopoly owner of the sole landfill in Missoula County, which continues and is the subject of this lawsuit, from at least 1999 until 2022 Republic (or its predecessors-in-interest) also enjoyed a monopoly over all regulated Class D trash hauling services in Missoula County.

13. Thus, from at least 1999 until 2022, if not long before, Republic has had a functional monopoly over all aspects of garbage disposal in Missoula County. Republic still enjoys a monopoly over the only landfill in Missoula County.

14. L & L was formed in 2006 to engage in the garbage disposal business in Gallatin County, Montana.

15. In 2006, L & L applied for and, in 2017, was ordered by the Montana Public Service Commission (the “PSC”) a Class D certificate of public convenience and necessity that authorized L & L to transport garbage construction debris disposal services in Gallatin County and Park County, Montana. It was at that point that L & L was first in direct competition with Republic.

16. In 2014, L & L applied for, and in 2016, was ordered by the PSC a Class D certificate of public convenience and necessity to provide (in addition to its prior certificate) that authorized L & L to provide all regulated trash hauling in Gallatin and portions of Madison County.

17. In Missoula County, for several years prior to 2000, and continuing through today, L & L engaged in demolition and deconstruction work, including hauling construction debris to Republic’s landfill, as well as in recycling.

18. In or about March 2018, L & L filed an application with the Montana Public Service Commission (the “PSC”) for a Class D certificate of public convenience and necessity to provide regulated waste hauling services in Missoula County. If approved, that certificate would have allowed L & L to directly compete with Republic for regulated garbage customers in Missoula County. Republic contested L & L’s application, and the PSC ultimately denied L & L’s 2018 application.

19. Historically, including for several years prior to 2020, Republic regularly did business with L & L in Missoula County. Without limitation, Republic allowed L & L’s trucks to access and utilize Republic’s landfill to dispose of construction and other demolition debris, for which L & L paid Republic the usual rates Republic charged others.

20. In December 2020, L & L filed a new application with the PSC for a Class D certificate of public convenience and necessity to provide regulated waste hauling services in Missoula County. Republic again vigorously contested L & L’s application.

21. After L & L filed its second application for a certificate of public convenience and necessity, Republic, without justification, unilaterally refused L &

L's trucks access to and the use of Republic's landfill and its services for its then construction and demolition debris disposal needs. Republic did so even though L & L intended to and would pay Republic for those services as previously occurred between the parties, or at the rate that other contractors were usually charged.

22. After Republic refused L & L access to the Missoula County landfill, L & L asked in writing for access to the landfill. Republic responded, indicating to L & L that it was refusing to allow L & L to access Republic's Missoula landfill because Republic had objected to L & L's application for the certificate necessary to compete with Republic for regulated garbage customers in Missoula County.

23. Republic regularly accepted, and accepts, from third parties the kind of debris and garbage Republic formerly accepted from L & L and which L & L desired and still desires to dispose of in Republic's landfill.

24. On March 3, 2022, the PSC issued its final order granting L & L's 2020 Class D application to compete with Republic in the Missoula County market for regulated trash disposal.

25. The PSC noted in its final order that "Republic, in addition to holding a complete horizontal monopoly on Class D waste hauling services, maintains a vertically integrated operation over garbage transfer as well." The PSC went on:

“[This] provides Republic with the power to exclude competitors from its disposal services.”

26. Republic appealed to Montana district court, but on January 25, 2023, Hon. Mike Menahan entered judgment upholding the PSC’s final order granting L & L’s certificate regulated trash hauling in Missoula County. Republic did not appeal and its time for doing so has now elapsed.

27. L & L currently serves customers in Missoula County for residential and commercial trash hauling and continues to attract new customers.

28. Despite request, Republic continues to refuse L & L access to the Missoula Count landfill, both for L & L’s previously existing construction and debris removal services, but now also for its county-wide trash hauling service.

29. Republic’s refusal to allow L & L to use Republic’s Missoula landfill causes L & L to incur additional charges and expenses for its services, including those incurred to transport Missoula County-originated trash out of the county for disposal, making it impossible for L & L to fairly compete for those services it has traditionally performed and desires to perform in the Missoula County garbage disposal market, the new trash hauling services the PSC has authorized it to perform, and any other relevantly defined market.

30. In addition, upon information and belief, when Republic's customers that have opted to utilized L & L's trash hauling services, Republic has offered – as an incentive for those customers to remain with Republic – a discount of approximately fifty percent, which charges are, upon information and belief, below Republic's actual cost of providing the service.

COUNT I
VIOLATION OF THE SHERMAN ACT
DAMAGES AND INJUNCTIVE RELIEF

31. The foregoing allegations are incorporated by reference.

32. Republic is a monopolist exercising control of the Missoula garbage disposal market and the Missoula landfill, standing alone and as a component of the Missoula garbage disposal market, subject only to L & L's recent entry into the regulated trash market in Missoula County.

33. The Missoula landfill is an essential facility relative to L & L's Missoula County operations. L & L is unable to duplicate the Missoula landfill reasonably or practically. Republic has refused L & L's access to the landfill services even though it is feasible for Republic to provide services, which it previously provided to L & L, and currently provides to third-parties.

34. Republic has attempted to, and has, monopolized the trade and commerce in the Missoula garbage disposal and/or landfill market in violation of Section 2 of the Sherman Act, to the detriment of consumers and the market, and specifically to the detriment of L & L.

35. Pursuant to and in effectuation of the aforesaid attempt to monopolize and in the furtherance of its monopoly power, Republic, acting with

specific intent, used and enforced its monopoly control over the Missoula garbage disposal and/or landfill market, particularly but without limitation through its exclusive control of the Missoula landfill, and denial of L & L the use and access thereof without right or justification, to exclude and constrain competition and to enhance Republic's market power in the Missoula garbage disposal and/or landfill market and to perpetuate market Republic's monopoly.

36. Republic's refusal to accept garbage at its landfill from L & L, and Republic's offer to accept, or acceptance, of charges from its other customers that are less than its actual costs with respect to its regulated garbage hauling services have no legitimate business purposes; rather, Republic's purpose is to unfairly complete and to sacrifice its short-term profits to obtain higher profits in the long run from the exclusion of competition in the Missoula garbage disposal and/or landfill market.

37. The foregoing anticompetitive violations disrupt and have the potential to disrupt the Missoula garbage disposal and/or landfill market and have caused L & L specific antitrust damages in the form of, without limitation, incurring additional charges and expenses to haul construction and demolition debris to different landfills, which charges and expense are passed on to

consumers, or which additional charges and expenses eliminate, preclude, and/or hinder L & L's competition in the market, which ultimately could lead to L & L's elimination from the market, which is precisely Republic's motivation for engaging in the conduct alleged herein.

38. Republic's conduct harms consumers.

39. L & L is entitled to treble damages under 15 U.S.C. § 15 because L & L has been injured in its business and its property by reason of Republic's violation of the antitrust laws.

40. Pursuant to 15 U.S.C. § 26, L & L is entitled to temporary, preliminary, and permanent injunctive relief that, without limitation, enjoins Republic from refusing L & L's access to and use of Republic's Missoula landfill in exchange for L & L's payment to Republic's its usual charges therefor.

COUNT II
VIOLATION OF MONTANA UNFAIR TRADE PRACTICES ACT
DAMAGES AND INJUNCTIVE RELIEF

41. The foregoing paragraphs are incorporated by reference.

42. For the purposes of creating or carrying out a restriction in trade, and with unlawful intent, Republic has and is, directly or indirectly, limited productions and created and perpetuated a monopoly in the manufacture, sale

or transportation of an article of commerce in violation of § 30-14-205, MCA, and has otherwise violated the Montana Unfair Trade Practices Act.

43. Because of Republic's conduct, L & L has been damaged.

44. Pursuant to § 30-14-222, MCA, L & L is entitled to temporary, preliminary and permanent injunctive relief that without limitation, enjoins Republic from refusing L & L's access to and use of Republic's Missoula landfill.

REQUEST FOR RELIEF

Plaintiff L & L Site Services, Inc. respectfully requests that the Court grant judgment in its favor and against Republic Services of Montana, a/b/n of Allied Waste Services of North America, LLC as follows:

1. For a money judgment, including treble damages, in an amount to be proven at trial;
2. For temporary, preliminary and permanent injunctive relief that, without limitation, enjoins Republic from refusing L & L's access to and use of Republic's Missoula landfill and enjoins Republic from charging, or offering to charge, its customers less than its actual costs of operations;
3. For an award of reasonable attorney's fees and costs to the extent permitted by law;

4. And for such other relief as the Court deems just.

DATED this _____ day of May 2023.

Respectfully Submitted,
RHOADES & ERICKSON PLLC

By: _____
Quentin M. Rhoades
Pro Querente