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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHEP USA,  
a New York Partnership

Plaintiff,

v.

Pallet Services, Inc.,  
a Washington corporation

Defendant.

No.  
COMPLAINT

For its Complaint against defendant Pallet Services, Inc. (“PSI”), plaintiff CHEP USA (“CHEP”) states and alleges the following:

**PARTIES, JURISDICTION, AND VENUE**

1. CHEP is a general partnership organized under the laws of the state of New York, with its principal place of business in Orlando, Florida. CHEP is engaged in the business of leasing wooden shipping pallets to manufacturers for use in the transportation of goods.

2. PSI is a corporation organized under the laws of the state of Washington, with its principal place of business in Anacortes, Washington. PSI is engaged in the business of, among other things, recycling and reselling used shipping pallets. PSI has facilities for pallet storage and recycling in Portland, Oregon and Seattle, Tacoma, Anacortes, and Pasco, Washington.

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1 leased CHEP pallets. The recipient of the goods (a distribution center, for example) then  
2 generally returns the CHEP pallet to a CHEP service center. CHEP then inspects each pallet,  
3 cleans, paints, and repairs it if necessary, and returns it to a manufacturer to transport another  
4 load of goods.

5 12. CHEP's agreements with manufacturers and distributors that use CHEP pallets  
6 expressly provide that CHEP owns the CHEP pallets and that the CHEP pallets may never be  
7 bought and sold.

8 13. The system of leasing and reusing high-quality pallets was developed by CHEP,  
9 and it has major advantages for all parties.

10 14. CHEP pallets are consistent in quality, dimensions, construction and strength. In  
11 contrast, white pallets are wildly variable in these respects. The result is cost savings for  
12 manufacturers, shippers, and recipients. By investing substantial time and money, CHEP has  
13 established a business reputation for providing superior, reliable, and safe pallets.

14 15. The benefits of CHEP's system of leasing high-quality pallets are dependent on  
15 CHEP's retaining ownership of its pallets, which permits CHEP to inspect its pallets regularly to  
16 ensure that they continue to meet CHEP's high and consistent quality and strength standards.

17 16. Pallet recyclers, such as PSI, sometimes come into possession of CHEP pallets.  
18 CHEP will compensate pallet recyclers for the cost of returning to CHEP those CHEP pallets  
19 that a pallet recycler inadvertently obtains.

20 17. Since each CHEP pallet is prominently marked with the words "Property of  
21 CHEP," no recycler is under any misapprehension about the ownership of CHEP pallets.

22 18. Also, CHEP pallets are painted a distinctive blue color; thus, all CHEP pallets  
23 are instantly recognizable as belonging to CHEP.

24 19. CHEP also mails letters to recyclers twice a year to inform the recyclers of  
25 CHEP's ownership interest in its blue pallets, and CHEP also routinely visits pallet recyclers to  
26 convey this message.

1           20.    The business of recyclers such as PSI is selling pallets to manufacturers and  
2 others.

3           21.    PSI receives and purchases used pallets from distributors and pallet vendors and  
4 either recycles those pallets or repairs or remanufactures those pallets for sale.

5           22.    PSI has actual and constructive knowledge of CHEP's ownership in its pallets.

6           23.    PSI has accumulated a large number of CHEP pallets. As of February 1, 2005  
7 there were approximately 15,000 CHEP pallets in PSI's facilities in Seattle and Tacoma and  
8 another 12,000 pallets at PSI's Portland, Oregon facility. PSI has had a substantial number of  
9 CHEP pallets in its yards for months, and this number continues to grow.

10          24.    Upon information and belief, PSI actively acquires CHEP pallets and pays pallet  
11 vendors \$1 or more per CHEP pallet.

12          25.    The current replacement cost for a single CHEP pallet is approximately \$20.00  
13 per pallet.

14          26.    PSI is not an authorized user of CHEP pallets. PSI and CHEP do not have an  
15 agreement, written or otherwise, authorizing PSI to collect, receive, hold, use, repair, recycle, or  
16 destroy CHEP pallets. Nevertheless, PSI rightfully obtains some CHEP pallets as part of its  
17 pallet sorting services for mutual customers of both PSI and CHEP. Those pallets are not the  
18 subject of this lawsuit as long as PSI returns the pallets to CHEP, CHEP's customers, or  
19 authorized CHEP pallet service centers as part of PSI's pallet sorting services.

20          27.    CHEP has repeatedly demanded that PSI return all CHEP pallets or allow CHEP  
21 to retrieve its pallets.

22          28.    PSI has imposed unreasonable conditions on the return of CHEP pallets,  
23 effectively refusing to return the CHEP pallets or to allow CHEP to retrieve its pallets.

24          29.    In the course of its business, PSI will continue to receive—or have the  
25 opportunity to receive—and exercise control over CHEP pallets.

1 30. PSI willfully takes and receives CHEP pallets with a gross disregard for CHEP's  
2 rights in its pallets.

3 **FIRST CLAIM (REPLEVIN)**

4 31. CHEP repeats and re-alleges the facts set forth in the preceding paragraphs.

5 32. PSI has intentionally and wrongfully interfered with CHEP's possession of  
6 CHEP pallets, refusing to surrender the CHEP pallets on reasonable terms.

7 33. Under Chapter 7.64 RCW, CHEP is entitled to the issuance of a Writ of Replevin  
8 immediately returning the CHEP pallets to CHEP's possession.

9 34. Under RCW 4.56.080, CHEP is entitled to judgment for the possession of the  
10 CHEP pallets or their value in an amount to be proved at trial, if PSI cannot deliver the pallets,  
11 plus damages caused by PSI's unlawful detention of the CHEP pallets in an amount to be  
12 proved at trial.

13 **SECOND CLAIM (CONVERSION)**

14 35. CHEP repeats and re-alleges the facts set forth in the preceding paragraphs.

15 36. By refusing to surrender the CHEP pallets on reasonable terms, PSI has  
16 converted the CHEP pallets to its own use.

17 37. PSI has intentionally and wrongfully interfered with CHEP's possession of  
18 CHEP pallets without legal justification.

19 38. PSI's wrongful conduct constitutes theft, as defined in RCW 9.56.020, and  
20 conversion, and CHEP is entitled to a judgment in the amount of the fair market value of the  
21 pallets wrongly withheld by PSI, plus damages for CHEP's loss of use of the pallets, in an  
22 amount to be proved at trial.

23 **THIRD CLAIM (PERMANENT INJUNCTION)**

24 39. CHEP repeats and realleges the facts set forth in the preceding paragraphs.

25 40. PSI has intentionally and wrongfully interfered with CHEP's possession of  
26 CHEP pallets.

1 41. In the course of its business, PSI will continue to receive or have the opportunity  
2 to receive and exercise control over CHEP pallets.

3 42. CHEP has a reasonable and well-grounded fear that PSI will continue to interfere  
4 with CHEP's legal right to possession of its pallets.

5 43. PSI's interference with CHEP's legal right to possession of its pallets will result  
6 in actual and substantial injury to CHEP, including but not limited to the costs of the loss of use  
7 of, or damage to, CHEP pallets and the costs of recovering those pallets. Furthermore, other  
8 pallet dealers may believe that CHEP cannot enforce its ownership interest in its pallets and  
9 could begin acting in the same manner as PSI.

10 44. Based on the foregoing, CHEP is entitled to a permanent injunction against PSI  
11 requiring PSI to inform CHEP within 72 hours of receiving any CHEP pallets and requiring PSI  
12 to surrender possession immediately of any and all CHEP pallets to CHEP or the mutual  
13 customers of CHEP and PSI, if any.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff CHEP USA respectfully prays for the following relief:

16 (1) That the Court enter judgment in favor of CHEP on its claims for conversion and  
17 replevin and require PSI to return all CHEP pallets in PSI's possession to CHEP, undamaged,  
18 and that PSI be required to pay CHEP for damages as a result of its conversion;

19 (2) That the Court issue a permanent injunction requiring PSI to inform CHEP  
20 within 72 hours of receiving any CHEP pallets and requiring PSI to surrender immediately all  
21 CHEP pallets in the possession, custody, or control of PSI; and for such other relief as the Court  
22 deems just and equitable;

23 (3) That the Court enter judgment in favor of CHEP awarding it expenses of  
24 litigation, including attorneys' fees;

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3 (4) That all costs be taxed against PSI; and

4 (5) That the Court award CHEP such other further relief as it deems just and  
5 necessary.

6 DATED this 9<sup>th</sup> day of February 2005.

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FOSTER PEPPER & SHEFELMAN PLLC

11

/s Marco J. Magnano, Jr. \_\_\_\_\_

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