EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SEAN TWOMEY; WILLIAM CRIM; GREGORY ERNST; JASON GOODIN; and ADAM KLEEKAMP, individually and on behalf of all others similarly situated, Plaintiffs, v. ACE HARDWARE CORPORATION; ACE RETAIL HOLDINGS LLC; ACE RETAIL GROUP, INC.; EPICOR SOFTWARE CORPORATION; ACE HARDWARE OF CHATTANOOGA, INC.; BELLMORE HOME CENTER, INC. (d/b/a "COSTELLO'S ACE HARDWARE"); BOLSTER HARDWARE LLC; THE HELPFUL HARDWARE COMPANY, LLC; THE HELPFUL GROUP, LLC; NIEMANN FOODS, INC.; W.E. AUBUCHON CO., INC.; and WHITMORE INVESTMENTS, INC., Defendants.	CASE NO. 1:26-cv-5320 **AMENDED CLASS ACTION COMPLAINT** **JURY TRIAL DEMANDED**

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Plaintiffs Sean Twomey, William Crim, Gregory Ernst, Jason Goodin, and Adam Kleekamp, on behalf of themselves and those similarly situated, state as follows:[1]

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NATURE OF ACTION

1. Defendant Ace Hardware Corporation is a buyers' cooperative owned by independent Ace hardware stores. For more than a decade, Ace stores have used their cooperative to conspire to raise prices and reduce choice for millions of consumers in violation of United States

[1] Plaintiffs file this amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(2), as the original Defendants provided their written consent for Plaintiffs to amend the complaint within 30 days of Defendants' responsive pleadings. *See* Dkt. 33 at 3 ("The deadline to amend pleadings and join parties without leave of court is 30 days after responsive pleading is filed.").

antitrust laws. They have done so by converting the cooperative into a sophisticated tool for fixing prices and dividing territory in local markets.

2. Ace Hardware Corporation originated as a lawful means for independent retailers to buy wholesale at a discount. Ace stores used the cooperative to build a brand that emphasized independent, locally owned stores. Over the last two decades, the Ace cooperative abandoned its commitment to independence by illegally coordinating member stores' prices and locations. The cooperative also abandoned its commitment to local ownership, favoring ownership by multi-store chains, private equity firms, and Ace Hardware Corporation itself. All of this conduct has driven up Ace store prices and profits at consumers' expense.

3. Every year since 2010, the Ace cooperative and its member stores have agreed to collect and share staggering amounts of competitively sensitive data regarding prices and sales in their stores.[2] They have further agreed to use this data to coordinate local prices and divide local markets. The admitted goal of these agreements is to "boost margins and present a more consistent pricing image to consumers."[3] In other words, the Ace cooperative has been cartelized. It has transformed from an organization designed to lower costs and make independent hardware stores more competitive into an organization that facilitates illegal coordination in aid of limiting competition and charging higher prices to consumers.

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[2] *At Ace, CFO Looks Beyond 2010 Sales Growth*, HBS Dealer (Feb. 2, 2018) https://hbsdealer.com/distributorsco-ops/ace-cfo-looks-beyond-2010-sales-growth ("In March, the co-op received its first peer group report from some 2,700 stores that share POS data. 'We never received such broad-based reporting across that many stores,' [Ace CFO Dorvin Lively] said.").

[3] *Ace Hardware Implements Robust Point-of-Sale and Inventory Management System*, Perle, https://www.perle.com/applications_solutions/retail/ace_hardware.shtml (last visited May 6, 2026).

4. The members of the Ace Cooperative Cartel (the "Cooperative") are independently owned and operated Ace stores ("Independent Ace Stores") and stores owned by Ace Hardware Corporation subsidiaries ("Ace Corporate Stores"). Some of the Independent Ace Stores are stores that do not even use Ace Hardware branding ("Individually Branded Stores"). Independent Ace Stores and Ace Corporate Stores (together, "Member Stores"), along with Defendant Ace Hardware Corporation and its Defendant subsidiaries, are all participants in and beneficiaries of the Cooperative's schemes. Another participant in the conspiracy is Defendant Epicor Software Corporation, which provides the technological tools essential to the conspiracy's success. The relevant schemes are ongoing today and operate in several distinct ways, summarized below and detailed in the remainder of this complaint.

5. First, Ace Hardware Corporation and Epicor, its longtime software provider, collect up-to-date, competitively sensitive information about the prices Ace Member Stores charge for each of their products, the quantities they are selling, and their inventory. Ace Member Stores agree to share these data with Ace Hardware Corporation, Epicor, and one another. In return Member Stores receive monthly reports, supplemented with weekly "hot sheets," showing how much their nearby competitor Ace Member Stores charge for products across their inventory, whether their competitors have those products in stock, and guidance to profitably raise prices on particular items. This practice alone constitutes a classic illegal information sharing conspiracy. But the Ace Cooperative takes it many steps further.

6. Second, the Cooperative Cartel and Epicor use this competitively sensitive data to fix prices in local markets. Ace Hardware Corporation organizes Ace Member Stores into locally defined geographic "Price Zones" and, working with Epicor, directs the stores in each Price Zone to uniformly increase prices for specified items, ensuring that prices at Ace Member Stores move

in unison with prices at their nearby competitors. In short, through their jointly owned cooperative, Ace Member Stores have agreed to develop and implement a shared set of prices that move in tandem with the prices of nearby Member Stores—ensuring that the stores do not compete on price. Ace Member Stores also agree to implement a more granular set of pricing guidance within these Price Zones by opting into particular “Price Levels” ranging from “most competitive” to “least competitive.” Ace Member Stores can readily determine the Price Levels of their local competitor Member Stores. By adopting the same Price Levels, they agree with their local competitors to raise prices on the same products, by the same amount, at the same time. If stores fail to follow the Cooperative’s pricing guidance, Epicor issues “Critical Price Change” alerts that straightforwardly direct stores to raise prices on particular items.

7. Finally, the Cooperative Cartel complements the above price coordination with a geographic market allocation scheme. Acting on behalf of the Member Stores, Ace Hardware Corporation restricts new stores from opening in locations where they would compete on price with existing Ace Member Stores, discourages Member Store owners from selling their stores to entrepreneurs not affiliated with Ace, and directs the sale of Ace Member Stores to owners of existing local Member Stores to further limit price competition. For the first part of this scheme, the Cooperative uses the detailed customer and sales data it collects to disperse stores geographically, locating stores at a distance from one another to limit customers’ ability to comparison shop by visiting different stores. Retailer-owned cooperatives allocating markets in this manner has been illegal under federal antitrust law for over 50 years. In *United States v. Topco Associates, Inc.*, the Supreme Court held that a buyers’ cooperative of independent store owners violated the antitrust laws by restricting members’ locations. 405 U.S. 596, 608 (1972) (“One of the classic examples of a per se violation of [section] 1 is an agreement between competitors at the

same level of the market structure to allocate territories in order to minimize competition."). The *Topco* Court explained that limiting competition between members of a retailer-owned cooperative is not a legitimate basis for location restrictions. *Id.* at 611 ("Without territorial restrictions, Topco members may indeed cut each other's throats. But we have never found this possibility sufficient to warrant condoning horizontal restraints of trade." (cleaned up)). The Ace Cooperative Cartel's conduct is more straightforwardly anticompetitive than the conduct held *per se* illegal in *Topco* because it is a horizontal agreement between Independent Ace Stores and Ace Corporate Stores alike. This horizontal agreement also goes beyond simple territorial restrictions: Ace Hardware Corporation exercises complete control over Member Stores' right to move to new locations and, as noted above, restricts existing Member Stores from being sold to owners who might compete with them for customers.

8. To understand why Defendants' conduct is illegal, and harmful to competition and consumers, it is important to recognize that Ace Hardware Corporation is not an ordinary retailer: it is a retailer-owned buyers' cooperative, as opposed to a franchise or a chain retail store. Ace Hardware Corporation was founded to provide independently owned hardware stores the ability to purchase wholesale products at lower prices. Today it remains an organization of *independent stores* that own and control the Cooperative. To join the Cooperative, Member Stores sign the "Ace Hardware Membership Agreement," which directs them to fill out their store name and location, and describes the signatory store as "an independent merchant, hereinafter referred to as the 'Member,' operating a retail business at" the listed location.[4]

[4] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Ace Hardware Membership Agreement (Nonbranded)*.

9. The Ace Cooperative and its Member Stores benefit from this independence. The stores do not pay franchise fees, are free to run their businesses as they please, and frequently do not use Ace branding in their stores. The owners of the retail stores derive customer goodwill by holding themselves out as locally owned small businesses, and keep all of their profits. Meanwhile, Member Stores coordinate their purchasing through a cooperative entity that does not pay corporate income tax so long as it distributes sufficient profits to the stores that own it, as Ace Hardware Corporation consistently does. All of this is in stark contrast to a franchise, such as McDonald's, which is owned and controlled by shareholders, not by McDonald's franchisees, and pays corporate tax. Since Ace Member Stores compete against each other in local markets—and frequently have significant power in those markets—they have both the strong incentive and ability to use their Cooperative to collude on price, output, and location in order to limit that competition.

10. Customers in many markets have little choice but to shop at Ace Member Stores, which frequently comprise 100% of their local market. Even when local markets include competitors, Ace Cooperative Members comprise a significant share of the market. These Members include Ace Corporate Stores owned by Defendants Ace Retail Holdings and Ace Retail Group in addition to Independent Ace Stores. Customers likely do not realize when they are shopping at, or comparing prices between, an Ace Corporate Store instead of an Independent Ace Store since there are no features to clearly distinguish the two. The Cooperative membership also includes Individually Branded Stores that do not use the Ace brand, meaning customers frequently do not realize when they are shopping at or comparing prices between two stores that are both in the Ace Cooperative. Altogether, the Ace Cooperative's dominance in local markets across the country means that customers comparing prices at their local hardware stores are frequently comparing pricing among stores that have pre-committed to charging *identical* prices across their

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range of products, and have been receiving regular updates about what their local competitor Ace Member Stores are charging across the range of products they sell. And since the Ace Cooperative is one of only two national retail hardware cooperatives through which new store owners can enter the market, customers cannot count on new stores opening up to bring more price competition to their local markets.

11. Ace Hardware Corporation is not unique in being a cooperative that includes competitors with a strong incentive to collude. For this reason, the antitrust laws strictly limit the conduct of cooperatives to ensure that they do not cross the line between competition-promoting coordination (e.g., wholesale purchasing and advertising) and anticompetitive behavior (e.g., fixing prices, restraining supply, and allocating markets). Ace Hardware Corporation has crossed this line. In a push to raise prices and earn higher profits, Ace Hardware Corporation, its subsidiaries, and its Member Stores have turned their buyers' cooperative into the Cooperative Cartel described in this complaint—a vehicle for facilitating collusive price increases on consumers and allocating retail markets.

12. The result is predictable: Aided by strategic price increases and market allocation, the revenue and profits of the Ace Cooperative have soared—all at the expense of Ace customers. Ace Hardware Corporation's revenue approximately doubled over the last decade, reaching $10 billion in 2025.[5] Ace Hardware Corporation's gross profits grew at a faster rate, increasing over 250% during the same period and reaching $1.6 billion in 2025.[6] Ace Member Stores' same-store sales and gross profits increased every year from 2009 through 2022.[7] Ace Hardware

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[5] Ace Hardware Corporation, 2025 Annual Report at 28; Ace Hardware Corporation, 2016 Annual Report at 3.

[6] *Id.*

[7] John Venhuizen, *A message from the President & CEO*, Ace Hardware Corporation (2022),

Corporation's reported retail gross profit—a measure of the profitability of Ace Corporate Stores—rose over 13% between 2023 and 2025 alone.[8] Ace Hardware Corporation's profit distributions to Member Stores reached a "record" $361.8 million in 2025.[9] Today, Ace Member Stores sell over $20 billion in merchandise annually, and the Ace Cooperative's Member Store and wholesale profits are well above the industry average.

13. Meanwhile, these soaring profits have increasingly accrued not to local communities and independent store owners, but to private equity firms, large corporations, and Defendant Ace Hardware Corporation, as these entities have grown their share of Ace Member Store ownership. For instance, Potters Ace Hardware, a family-owned group of 21 Ace Member Stores dating back to 1946, was acquired by private equity firm CMG in 2022, while retaining the original Potters Ace brand. Potters Ace stores are now operated by CMG through Defendant Bolster Hardware LLC. CMG, which also owns over 200 dual-branded KFC/Taco Bell locations and nearly 100 Rent-A-Center stores, "plans to bring together up to 150 Ace Hardware locations under one group."[10] CMG is far from the friendly, neighborhood hardware store owner around which the Ace Cooperative has constructed its brand.[11] Despite its new ownership, Potters Ace

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https://www.acehardware.com/2022-annualreport/message-to-shareholders.

[8] Ace Hardware, 2025 Annual Report at 4.

[9] *Ace Hardware Reports Fourth Quarter and Full Year 2025 Results*, Ace Hardware Corporation (Feb. 18, 2026), https://newsroom.acehardware.com/ace-hardware-reports-fourth-quarter-and-full-year-2025-results/.

[10] *New Mega Group of Ace Hardware Stores Formed*, Hardware Connection (June 14, 2022), https://thehardwareconnection.com/new-mega-group-of-ace-hardware-stores-formed/; *CMG Companies Philanthropic Foray Fueled by Franchising Business Model*, Nasdaq (Apr. 26, 2022), https://www.nasdaq.com/press-release/cmg-companies-philanthropic-foray-fueled-by-franchising-business-model-2022-04-26.

[11] CMG made headlines in the 2010s when it was removed as a franchisee of a Twin Peaks restaurant chain after it "courted danger," ignored warnings from police, and played host to a biker gang shootout in Waco, Texas, that left nine people dead. Chidanand Rajghatta, *Gujarat*

still describes itself as "PROUDLY LOCAL" on its homepage, and writes that it has been "Family Owned Since 1946."[12]

14. CMG is not alone in its acquisition of Ace Member Stores. At least two other private equity firms, JPB Partners and Tecum Capital, have steadily acquired Ace Member Stores over the last decade through Defendant The Helpful Hardware Company ("HHC").[13] These private equity-owned Member Stores frequently dominate local hardware markets. Crossville, Tennessee, for example, is served by three Ace Member Stores—all Potters Ace locations owned by Defendant Bolster Hardware LLC and CMG. And even stores that are not owned by private equity are increasingly owned by large corporate entities that own and operate dozens of Ace Member Stores. Defendant The Helpful Group, LLC, operates dozens of Elder's Ace stores—including Defendant Ace Hardware of Chattanooga, Inc.—across Tennessee, South Carolina, and Georgia, and all three of the Ace Member Stores serving the town of Anderson, South Carolina.[14] Defendant W.E. Aubuchon Co., Inc., likewise operates over 100 hardware stores across the Northeast, including approximately 50% of the Ace Member Stores in Vermont.[15]

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Hotel-Owners Caught in US Biker War Own $500m Business, The Times of India (May 21, 2015), https://timesofindia.indiatimes.com/world/us/gujarat-hotel-owners-caught-in-us-biker-war-own-500m-business/articleshow/47364643.cms.

[12] Potters Ace Home Center, https://pottersace.com/ (last visited May 6, 2026).

[13] *PE Investments*, JPB Partners, https://www.jpbpartners.com/peinvestments (last visited May 6, 2026); *Tecum Capital Announces Investment in The Helpful Hardware Company*, Tecum Capital (Sept. 24, 2019), https://www.tecum.com/tecum-capital-announces-investment-in-the-helpful-hardware-company/.

[14] *Our Locations*, Elder's Ace, https://www.eldershardware.com/locations (last visited May 6, 2026).

[15] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Table No. 2: Transfers of Outlets from Franchisees to New Owners*; Ben Aubuchon, *Aubuchon Company Acquiring Three Noble Ace Hardware Stores*, Aubuchon Company (Jan. 10, 2025), https://www.aubuchon.company/post/aubuchon-company-acquires-noble-ace-hardware-stores; *Aubuchon Company Acquiring Bibens Ace Hardware*, VermontBiz (April 18, 2024),

15. The concentration of these stores with identical ownership is no accident. The Ace Cooperative Cartel has instituted policies to promote and preserve co-ownership of stores in local markets. And the most significant source of consolidated store ownership is Ace Hardware Corporation itself. Ace Hardware Corporation subsidiaries Ace Retail Holdings LLC and Ace Retail Group, Inc., own hundreds of Ace Member Stores operating under various names, including over two dozen Great Lakes Ace stores in the Detroit area alone. These Ace Corporate Stores are among the biggest beneficiaries of the Cooperative Cartel's anticompetitive schemes.

16. Another beneficiary of the Ace Cooperative's illegal schemes has been Defendant Epicor Software Corporation, a leading provider of Enterprise Resource Planning (ERP) and point-of-sale (POS) software. Epicor is the Ace Cooperative's longtime partner in collecting and taking advantage of local Ace Member Stores' price data. Epicor holds itself out as providing businesses "real-time [] insights" that help their customers "[m]ake smarter stocking, pricing, and sales decisions with on-demand analysis of customer behavior, inventory movement, and sales history."[16] Epicor has contracted with Ace Hardware Corporation and Ace Member Stores to collect and transmit the data that allows Member Stores to coordinate price movements and avoid competing with one another on price. The vast majority of Ace Member Stores use Epicor's "Eagle" software, which is "the only in-store technology solution currently endorsed by Ace."[17] Epicor's online documentation for Eagle, detailed below, explains how Ace Member Stores use its software to receive "Critical Price Change" alerts directing them to raise prices on particular

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https://vermontbiz.com/news/2024/april/18/aubuchon-company-acquiring-bibens-ace-hardware.

[16] *Streamline Sales, Delight Customers*, Epicor, https://www.epicor.com/en-us/solutions/industries/retail/ (last visited May 6, 2026).

[17] *Program Overview – Why Ace is the Place*, Ace Hardware Publ'n p. 26 (June 2021), https://online.flippingbook.com/view/707392899/.

items to better align with their fellow Ace Cooperative Members, as well as a plethora of other information and tools central to the illegal price coordination described in this complaint.

17. Defendants' illegal price coordination and market allocation schemes have enabled Ace Member Stores to charge consumers supracompetitive prices in local markets nationwide. Defendants have reaped enormous profits as a result of this scheme. This action seeks to put a stop to Defendants' ongoing anticompetitive conduct and recover for consumers the amounts they have overpaid at Ace Member Stores as a result of Defendants' violations of law.

PLAINTIFFS

18. Plaintiff Sean Twomey resides in Palos Heights, Illinois. Mr. Twomey is not a member of the Ace Rewards program. Mr. Twomey purchased from Palos Ace Hardware at 6465 W 127th Street, Palos Heights, Illinois 60463, on November 26, 2025. Mr. Twomey purchased from Duke's Ace Hardware at 7610 W 111th Street, Palos Hills, Illinois 60465, on December 23, 2025. Mr. Twomey brings his claims against all Defendants in this action.

19. Plaintiff William Crim resides in Crested Butte, Colorado. Mr. Crim is a member of the Ace Rewards program. In July 2026, Mr. Crim made multiple purchases from Crested Butte Ace Hardware at 607 6th Street, Crested Butte, Colorado 81224, and from Fullmer's Ace Hardware at 820 West Tomichi Avenue, Gunnison, Colorado 81230. Both Crested Butte Ace Hardware and Fullmer's Ace Hardware are Epicor customers, Ace Rewards participants, and have pre-committed to charging supracompetitive prices across their range of inventory using Ace Price Levels. Mr. Crim brings his claims against Epicor and the Independent Member Store Defendants.

20. Plaintiff Gregory Ernst resides in St. Louis, Missouri. Mr. Ernst is a member of the Ace Rewards program. In the last four years, Mr. Ernst has made purchases at Rick's Ace Hardware at 11767 Manchester Road, St. Louis, Missouri 63131, including on August 15, 2026.

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Rick's Ace Hardware is an Epicor customer, an Ace Rewards participant, and has pre-committed to charging supracompetitive prices across its range of inventory using Ace Price Levels. Mr. Ernst brings his claims against Epicor and the Independent Member Store Defendants.

21. Plaintiff Jason Goodin resides in Mesa, Arizona. Mr. Goodin is not a member of the Ace Rewards program. In May and June 2026, Mr. Goodin purchased from Country Ace Hardware at 627 W Agate Avenue, Granby, Colorado 80446. Country Ace Hardware is an Epicor customer, an Ace Rewards participant, and has pre-committed to charging supracompetitive prices across its range of inventory using Ace Price Levels. Mr. Goodin brings his claims against all Defendants in this action.

22. Plaintiff Adam Kleekamp resides in Washington, Missouri. Mr. Kleekamp is not a member of the Ace Rewards program. In July 2026, Mr. Kleekamp purchased from Westlake Ace Hardware at 810 Washington Corners, Washington, Missouri 63090. Westlake Ace is an Ace Corporate Store that participates in Ace Rewards and employs Ace Price Levels to charge coordinated, supracompetitive prices along with its local competitors. Mr. Kleekamp brings his claims against all Defendants in this action.

DEFENDANTS

I. The Ace Hardware Corporation Defendants

23. Defendant Ace Hardware Corporation is a Delaware corporation headquartered at 2915 Jorie Boulevard, Oak Brook, Illinois 60523.

24. Defendant Ace Retail Holdings LLC is a Delaware limited liability company and wholly-owned subsidiary of Ace Hardware Corporation. Ace Retail Holdings is the parent company of Defendant Ace Retail Group, Inc., which owns and operates over 250 Ace Corporate Stores, including Westlake Ace Hardware, Great Lakes Ace Hardware, and Buikema's Ace

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Hardware.[18] Until December 31, 2025, Ace Retail Holdings was the direct owner and operator of these stores.[19] On December 31, 2025, operation of Ace Corporate Stores was transferred to Ace Retail Holdings LLC's wholly-owned subsidiary Ace Retail Group, Inc.

25. Defendant Ace Retail Group, Inc., is a Delaware corporation and wholly-owned subsidiary of Ace Retail Holdings LLC. As of December 31, 2025, Ace Retail Group is the operating company of over 250 Ace Corporate Stores, including Westlake Ace Hardware, Great Lakes Ace Hardware, and Buikema's Ace Hardware.[20]

II. Defendant Epicor

26. Defendant Epicor Software Corporation ("Epicor") is a Delaware corporation headquartered at 807 Las Cimas Parkway, Suite 400, Austin, Texas 78746. Epicor is owned by private equity firm Clayton Dubilier & Rice LLC, a Delaware corporation headquartered at 550 Madison Avenue, New York, New York 10022.

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III. Independent Member Store Defendants

27. Defendant Bellmore Home Center, Inc. (d/b/a "Costello's Ace Hardware"), is a New York corporation with its principal place of business at 770-11 Grand Boulevard, Deer Park, New York 11729. Bellmore Home Center owns and operates approximately 62 Ace Member Stores across New York, New Jersey, Pennsylvania, Maryland, Delaware, and Virginia under the "Costello's Ace Hardware" and "Rommel's Ace Home Center" trade names. Under the leadership

[18] *About Us*, Westlake Ace Hardware, https://westlakehardware.com/about/ (last visited May 6, 2026) ("Westlake Ace is a wholly owned subsidiary of Ace Retail Holdings. A division of Ace Hardware Corporation, Ace Retail Holdings currently owns and operates more than 250 Ace Hardware stores nationwide under the Breed & Co., Buikema's Ace, Dennis Company Ace, Great Lakes Ace, Westlake Ace, and Outer Banks Ace brands.").

[19] Ace Hardware Corporation, 2025 Annual Report at 8.

[20] *Id.*

of President Jaime Maloney and CEO Michael Costello, Bellmore Home Center acquired 11 previously family-owned Rommel's Ace Home Center stores in 2025. Costello's Ace Hardware stores use Epicor and consistently choose Ace Price Levels that pre-commit them to charging supracompetitive prices across their range of inventory in coordination with other Ace stores in their local Price Zones. For instance, Costello's Ace Hardware of Lincoln Park, New Jersey, and nearby Ace Member Store competitor Oakland Hardware are both in Price Zone 04003 and choose "Price Level 1" across their range of inventory.

28. Defendant Bolster Hardware LLC is a Texas limited liability company and portfolio company of CMG Companies, with its principal place of business at 7250 Dallas Parkway, Suite 800, Plano, Texas 75024. Bolster Hardware owns and operates approximately 40 Ace Member Stores in nine states, including 19 stores operating as "Potters Ace Hardware" in Tennessee and Kentucky, as well as stores in Georgia and Wisconsin operating under other trade names. Bolster Hardware is owned by CMG Companies, a multi-unit franchise operator that also operates over 200 KFC and Taco Bell restaurants and nearly 100 Rent-A-Center stores, and whose stated goal is to "bring together up to 150 Ace Hardware locations under one group."[21] Potters Ace Hardware locations use Epicor, participate in Ace Rewards, and use Ace Price Zones and Price Levels to pre-commit to charging supracompetitive prices along with their competitors. For instance, Potters Ace Hardware stores in Price Zone 11009 have pre-committed to charging prices at the same level as Elder's Ace Hardware locations in the same Price Zone.

29. Defendant The Helpful Group, LLC, is a Tennessee limited liability company with its principal place of business at 4921 Highway 58, Chattanooga, Tennessee 37416. The Helpful

[21] New Mega Group of Ace Hardware Stores Formed, The Hardware Connection (June 14, 2022), https://thehardwareconnection.com/new-mega-group-of-ace-hardware-stores-formed/.

Group coordinates the operations of dozens of Ace Member Stores operating under the "Elder's Ace Hardware" name across Tennessee, Georgia, South Carolina, and North Carolina.[22] Elder's Ace Hardware locations use Epicor, participate in Ace Rewards, and have pre-committed to charging supracompetitive prices along with their competitors. Many Elder's Ace locations have pre-committed to pricing at "Price Level 1" across their inventory.

30. Defendant Ace Hardware of Chattanooga, Inc., is a Tennessee corporation with its principal place of business at 4921 Highway 58, Chattanooga, Tennessee 37416. Ace Hardware of Chattanooga is an Ace Member Store and one of 38 stores operating under the "Elder's Ace Hardware" brand across Tennessee, Georgia, South Carolina, and North Carolina. Ace Hardware of Chattanooga uses Epicor and participates in Ace Rewards. Ace Hardware of Chattanooga is in Ace Price Zone 11003 and has pre-committed to pricing at "Price Level 1" along with its nearby competitor, Ace Hardware of Flintstone, which is also in Price Zone 11003. The stores comprising the Elder's Ace Hardware network, including Defendant Ace Hardware of Chattanooga, Inc., are operated through affiliated entities under common ownership and control. Hereinafter, Defendant Ace Hardware of Chattanooga and Defendant Helpful Group, LLC, will be collectively referred to as the "Elder's Ace Defendants."

31. Defendant The Helpful Hardware Company, LLC ("HHC"), is a Delaware limited liability company registered to do business in Georgia, with its principal place of business in Cumming, Georgia. HHC owns and operates approximately 22 Ace Member Stores across Georgia, South Carolina, North Carolina, and Tennessee. HHC is owned by private equity firm JPB Partners. Ace Member Stores owned and operated by HHC use Epicor, participate in Ace

[22] Greg Wilson, *New White Jones Owners Have Big Plans for 2025*, The Anderson Observer (Dec. 18, 2024), https://www.andersonobserver.com/news/new-white-jones-owners-have-big-plans-for-2025.

Rewards, and have pre-committed to pricing at supracompetitive levels along with competitors. For instance, HHC's Ace Hardware of Donelson is in Price Zone 11003 and has pre-committed to pricing at "Price Level 1" along with its nearby competitor, Guthrie's Ace Hardware, which is also in Price Zone 11003.

32. Defendant Niemann Foods, Inc., is an Illinois corporation headquartered at 1501 N. 12th Street, Quincy, Illinois 62301. Niemann Foods owns and operates approximately 40 Ace Member Stores across Illinois, Iowa, Minnesota, Missouri, and Wisconsin under the "Niemann Ace Hardware" brand. Niemann Foods is a diversified retail company with over 5,000 employees and 140 total retail locations, including grocery stores, pet supply stores, and restaurants in addition to its Ace Hardware stores. Niemann Foods operates Ace Member Stores in multiple Illinois locations, including in Champaign, Peoria, Quincy, Pekin, Farmington, Rantoul, and Charleston. Niemann Ace Hardware locations use Epicor, participate in Ace Rewards, and have pre-committed to pricing at supracompetitive levels along with their competitors. For instance, Niemann Ace Hardware in McFarland, Wisconsin, is in Price Zone 05004 and has pre-committed to pricing at "Price Level 1," as has its nearby competitor Dorn Ace Hardware, which is also in Price Zone 05004.

33. Defendant W.E. Aubuchon Co., Inc. ("Aubuchon Company") is a Massachusetts corporation with its principal place of business at 95 Aubuchon Drive, Westminster, Massachusetts 01473. Aubuchon Company owns and operates over 100 Ace Member Stores in eleven states across the Northeastern United States, including stores operating as "Aubuchon Ace Hardware," "Bibens Ace Hardware," and "Curry Ace." Aubuchon-owned Ace Member Stores participate in Ace Rewards. Despite being acquired by Aubuchon in 2023, Curry Ace continues to advertise itself as a "local" and "family owned" business. Curry Ace is in Ace Price Zone 15003 and has

pre-committed to supracompetitive "Price Level 2" pricing across its inventory, as have other Ace Member Stores in that Price Zone.

34. Defendant Whitmore Investments, Inc., is an Illinois corporation with its principal place of business at 1105 S. Water Street, Wilmington, Illinois 60481. Whitmore Investments owns and operates 15 Ace Member Stores in Illinois under the "Whitmore Ace Hardware" brand. Whitmore Ace Hardware locations use Epicor, participate in Ace Rewards, and have pre-committed to pricing at supracompetitive levels along with competitors. For instance, Whitmore Ace Hardware in Lockport, Illinois, and nearby competitor Lemont Ace Hardware are both in Price Zone 16004 and use the same Price Level across their inventory. David Cripe, Vice President of Whitmore Investments, is a member of the Ace Hardware Corporation Board of Directors, where he chairs the Retail Supply Chain Committee and is a member of Ace's Multi-Store Strategy Advisory Team.

35. Hereinafter, Defendant Bellmore Home Center, Inc. (d/b/a "Costello's Ace Hardware"), Defendant Bolster Hardware LLC, the Elder's Ace Defendants, Defendant Helpful Hardware Company, LLC, Defendant Niemann Foods, Inc., Defendant W.E. Aubuchon Co., Inc., and Defendant Whitmore Investments, Inc., will be collectively referred to as the "Independent Member Store Defendants."

NON-DEFENDANT CO-CONSPIRATORS

36. The non-defendant co-conspirators include the remaining, unnamed Independent Ace Stores that together with the Independent Member Store Defendants make up the approximately 5,000 Independent Ace Stores in the United States. The Independent Ace Stores have conspired with each other, with Defendant Epicor, and with the Ace Hardware Corporation Defendants. The Independent Ace Stores own and control Ace Hardware Corporation, and thus

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the Cooperative Cartel, supervising and participating in the conduct of the Cooperative and its subsidiaries in furtherance of the conspiracy as member-owners.

37. The Independent Ace Stores also participate in the market allocation and price collusion practices alleged herein in furtherance of the conspiracy. Ace Member Stores agree as part of being members to cooperate with and benefit from the Ace Cooperative's territorial restrictions—including by agreeing to seek approval from Ace Hardware Corporation before opening a new store location or relocating an existing store—all in furtherance of the conspiracy. Individual Ace Member Stores also agree, as a condition of membership and as a condition of joining the Ace Rewards program, to cooperate with, contribute to, and benefit from Defendants' collection and sharing of competitively sensitive information. Ace Member Stores also agree to cooperate with, contribute to, and benefit from the Cooperative's price collusion, including by agreeing to share, and sharing on a daily basis, competitively sensitive sales data with Ace Hardware Corporation (with the knowledge that the information will be incorporated into reports shared with their local competitor Ace Member Stores as well as into collusive pricing recommendations), by adopting point-of-sale software that facilitates sharing this information, by receiving collusive price recommendations and direction in the form of "hotsheets" and "Mango Reports," by setting collusive Price Levels under Ace's "Level Pricing" system, and by implementing collusive price increases, all in furtherance of the conspiracy.

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38. Plaintiff Sean Twomey has purchased directly from two non-defendant Independent Ace Store co-conspirators: Palos Ace Hardware in Palos Heights, Illinois, and Duke's Ace Hardware in Palos Hills, Illinois.

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39. Palos Hardware LLC is an Illinois corporation with its principal place of business at 6465 W 127th Street, Palos Heights, Illinois 60463. Palos Hardware LLC is the legal name of

the Ace Member Store located at that same address and doing business as Palos Ace Hardware. Palos Hardware LLC is owned by Dan Harris. Harris is a former employee of Ace Hardware Corporation, current Chairman of the North American Hardware and Paint Association, and "has served as group leader and board member for the local Chicago Ace retail group."[23] Palos Ace Hardware is an Ace Rewards participating store and user of Epicor's software. Accordingly, Palos Ace Hardware has agreed to share competitively sensitive sales and output data with Ace Hardware Corporation and its fellow Ace Member Stores, to receive from Ace Hardware Corporation competitively sensitive data regarding its local competitor Ace Member Stores, and to coordinate pricing with its nearby Ace Member Stores.

40. Palos Ace Hardware is located in Ace Hardware Price Zone 16004 and has chosen Price Level 1 for all of its product categories, reflecting a decision to raise prices above competitive levels. Harris has acknowledged to *Hardware Retailing* magazine that he "relies on price recommendations from his co-op" to help determine prices at Palos Ace Hardware.[24] In the same article, Harris also observed that "his customers don't believe him when he says he's offering the best price on a product."[25] Harris is also the owner of Lemont Hardware, LLC, which operates as Lemont Ace Hardware in Lemont, Illinois.

41. Palos Ace Hardware competes for customers with nearby Ace Member Stores, such as Dejay's Ace Hardware in Chicago, Illinois. Harris has explained that his customer base is highly

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[23] *Meet NHPA Chairman Dan Harris*, Paint & Decorating Retailer, https://pdrmag.com/meet-nhpa-chairman-dan-harris/ (last visited May 6, 2026).

[24] Kate Klein, Melanie Moul, & Todd Taber, *What's Your Price Image*, Hardware Retailing Publ'n p. 40 (Aug. 2018), https://www.hardwareretailing.com/wp-content/uploads/2018/07/Price-Perception.pdf.

[25] *Id.*

local and "largely lives within a 2-5 mile radius" of the store.[26] Palos Ace Hardware and Dejay's Ace Hardware are seven miles apart. They are equidistant from many potential customers, such as customers in Oak Lawn, Illinois, and nearby suburbs, many of whom are 3-4 miles from either store. Both Palos Ace Hardware and Dejay's Ace Hardware are in Price Zone 16004 and have chosen Price Level 1 for each of their product categories. As a result, these competitor stores receive identical pricing guidance across their inventory. As detailed later in this complaint, an examination of pricing at Palos Ace Hardware, Dejay's Ace Hardware, and another Ace Member Store in their Price Zone shows that the stores do in fact coordinate on pricing, and that Palos Ace Hardware and Dejay's Ace Hardware have implemented Ace Level Pricing to charge coordinated, higher prices to consumers. In sum, Palos Ace Hardware illegally coordinates with its local competitors to charge higher prices to consumers across the products in its inventory.

42. DPH Hardware, Inc, is an Illinois corporation with its principal place of business at 7610 W 111th Street, Palos Hills, Illinois 60465. DPH Hardware, Inc. is the legal name of the Ace Member Store located at that address and doing business as Duke's Ace Hardware. Duke's Ace Hardware is an Ace Rewards participating store and user of Epicor software. Accordingly, Duke's Ace Hardware has agreed to share competitively sensitive sales and output data with Ace Hardware Corporation and its fellow Ace Member Stores, to receive from Ace Hardware Corporation competitively sensitive data regarding its local competitor stores, and to coordinate pricing with its nearby Ace Member Stores.

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43. Duke's Ace Hardware is located in Ace Hardware Price Zone 16001 and has chosen Price Level A for all of its product categories. Another Duke's Ace Hardware location with the

[26] Ron Kremer, *Local Hardware Stores: How Do They Compete with the Big Guys?*, Patch (Aug. 3, 2012), https://patch.com/illinois/palos/local-hardware-stores-how-do-they-compete-with-the-big-guys.

same Price Zone and same chosen Price Level is located in Burbank, Illinois, approximately five miles from Duke's Ace Hardware in Palos Hills. Both of these Duke's Ace Hardware locations compete with nearby Ace Member Stores, including five nearby Buikema's Ace Hardware locations, which all share the same Price Zone and chosen Price Level. For instance, Buikema's Ace Hardware in Romeoville, Illinois, is equidistant (approximately 12 miles) from Duke's Ace Hardware in Palos Hills for customers living in Darien, Illinois. An analysis of prices at Duke's Ace Hardware in Palos Hills and Buikema's Ace Hardware in Romeoville later in the complaint shows that these stores indeed coordinate pricing, charging the same prices for products across items in their inventory, and allowing them to extract anticompetitive overcharges from customers. Buikema's Ace locations are all Ace Corporate Stores owned and operated by Defendant Ace Retail Group, Inc.

JURISDICTION

44. This is a civil action seeking damages and injunctive relief under federal antitrust law. The Court has subject matter jurisdiction over the causes of action under 15 U.S.C. § 26 and 28 U.S.C. §§ 1331, 1337.

45. This Court also has subject matter jurisdiction under 28 U.S.C. § 1332(d) because the proposed Class contains more than 100 persons, the aggregate amount in controversy exceeds $5,000,000, and at least one proposed Class Member is a citizen of a State different from any Defendant.

46. This Court has personal jurisdiction over Defendants, and venue is proper in this district, under Section 12 of the Clayton Antitrust Act, 15 U.S.C. § 22. Defendants may be found in and transact business in this district. Defendant Ace Hardware Corporation is headquartered in Oak Brook, Illinois. Defendants Ace Retail Holdings LLC and Ace Retail Group, Inc., are wholly-

owned subsidiaries of Ace Hardware Corporation and own and operate Ace Corporate Stores in this district, including the Buikema's Ace stores discussed above. Epicor is registered to do business in the State of Illinois, does business with Ace Hardware Corporation in Oak Brook, Illinois, and throughout the state of Illinois, and provides software to Ace Member Stores in this district, including Palos Ace Hardware and Duke's Ace Hardware. This case arises out of Epicor and the Ace Defendants' conduct in the State of Illinois and in this district. This Court also has personal jurisdiction over Defendants because Defendants have sufficient contacts with the State of Illinois, including in this district, and have purposefully availed themselves of the privilege of conducting business in Illinois and in this district.

47. Each of the Independent Member Store Defendants is a member of the Ace Cooperative and has signed a Membership Agreement with Ace Hardware Corporation. Those Membership Agreements provide that suits shall be brought before an Illinois court, that all provisions shall be interpreted and construed in accordance with the laws of Illinois, and that Chicago, Illinois, shall be the location of all arbitration hearings. Those Membership Agreements also provide that they "shall not be effective unless and until" they are signed by Ace Hardware Corporation "at its principal office in Illinois." Ace Right of First Refusal Agreements also signed by Independent Member Store Defendants require that actions under that Agreement be brought under Illinois law and "exclusively in the federal or state courts located in Cook County, Illinois." Each Member Store Defendant transmits daily point-of-sale data to Ace Hardware Corporation in Illinois, receives localized pricing from Ace Hardware Corporation in Illinois, places wholesale merchandise orders through Ace Hardware Corporation, and participates in programs, including Ace Rewards, that are administered from Ace Hardware Corporation's headquarters in Oak Brook, Illinois. Each Member Store Defendant has consented to the

jurisdiction of this Court and maintains continuous and systematic business contacts with Illinois in furtherance of the conspiracy alleged herein. Defendant Whitmore Investments, Inc., and Defendant Niemann Foods, Inc., are Illinois corporations that operate Ace Member Stores in Illinois. Defendant Whitmore Investments operates Member Stores in this district.

48. Venue is proper in this district as to all Defendants under 28 U.S.C. § 1391 because Ace Hardware Corporation engages in the anticompetitive conduct alleged in this complaint from its headquarters in this district, and Plaintiff Sean Twomey purchased from Ace Cooperative Members in this district. Venue is further proper in this district as to Epicor and each Independent Member Store Defendant under 15 U.S.C. § 22 and 28 U.S.C. § 1391 because each transacts business in this district through its ongoing contractual relationship with Ace Hardware Corporation.

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FACTUAL ALLEGATIONS

I. Ace Hardware Overview

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49. Ace Hardware Corporation has operated for the benefit of independent hardware stores since its founding. As the Corporation's website explains, its founding members sought to pool their buying power and acquire merchandise at lower prices:

> Founded in 1924 by a small group of Chicago hardware store owners, Ace changed the retail landscape by allowing individual stores to purchase merchandise in bulk to save money and buy at the lowest possible price. This partnership enabled even the smaller stores to compete effectively at retail despite larger stores in their market. And to this very day, Ace Hardware Corporation is still owned solely and exclusively by the local Ace retail entrepreneurs.[27]

50. Retail hardware cooperatives have long served this important purpose for independent hardware stores. Even small hardware stores must carry a wide-ranging inventory, requiring them to navigate a multitude of supplier relationships and negotiate prices with each of

[27] *About Ace Hardware*, Ace Hardware Corporation, https://www.acehardware.com/about-us (last visited May 6, 2026).

those suppliers. A retail cooperative streamlines this process and provides the stores with lower wholesale prices through cooperative purchasing power and private label products. The cooperative structure has other advantages as well. Ace Hardware Corporation is permitted to deduct from its taxable income the amount of any patronage distributions it makes to its Member Stores. The result is that Ace Hardware Corporation typically pays no federal income tax.

A. The Ace Cooperative's Expansion and Revenue Growth

51. Ace has grown steadily since its founding. By 1934, ten years after its founding, Ace had 41 stores.[28] Twenty-five years later, by 1959, Ace had grown to 325 retail stores.[29] Until 1973, Ace was an independent wholesaler. That year it was reorganized into a retailer-owned buyers' cooperative.[30] From then on, Ace Member Stores directly controlled Ace Hardware Corporation, and the Cooperative continued its growth. The Ace Cooperative reached 4,311 stores in 2016, and has since grown by approximately 40%, reaching 5,966 stores in 2024.[31] The vast majority of Ace Member Stores—over 5,000—are in the United States. In 2025, Ace Hardware Corporation's revenue was $10 billion. Meanwhile, the businesses in the Ace Cooperative earned over $24 billion in revenue—comparable to the annual revenue of 3M or Charles Schwab.[32]

52. Ace Member Stores benefit from the growth of their cooperative. Having more Member Stores enables the Cooperative to negotiate lower wholesale prices through greater purchasing power, saving money for individual stores. Having more stores also increases Ace Hardware Corporation's profits, which are then distributed to Member Stores, or spent on advertising to promote the Ace brand. From 2015 to 2025, the Ace Cooperative more than doubled

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[28] *Ace Hardware Turns 100,* Hardware Connection (Mar. 6, 2024), https://thehardwareconnection.com/ace-hardware-turns-100/.

[29] *Id.*

[30] *Id.*

[31] Ace Hardware Corporation, 2019 Annual Report at 4; Ace Hardware Corporation, 2024 Annual Report at 42.

[32] John Venhuizen, *Message to Shareholders: President & CEO*, Ace Hardware Corporation (2025), https://www.acehardware.com/message-to-shareholders.

both disbursements to Member Stores and its advertising expenditures. It spent $162.8 million on advertising and $145.9 million on patronage distributions in 2015.[33] Those figures were $374.6 million and $361.8 million, respectively, in 2025.[34]

B. The Ace Cooperative's Membership

53. As a buyers' cooperative, Ace Hardware Corporation is different from a franchise or chain retail store. A franchisor, like McDonald's, is an independent company that licenses intellectual property and sells services to franchisees in return for royalties. The franchisor's stock is owned by investors other than the franchisees. The franchisees also have independent owners separate from the owners of the franchisor. The stock of Ace Hardware Corporation is wholly owned by the Ace Cooperative Member Stores. Ace Member Stores do not pay royalties back to Ace Hardware Corporation; they receive the Corporation's profits. Although the Ace Cooperative occasionally refers to Member Stores as "franchises," as owners of Ace Hardware Corporation, Ace Member Stores are in no sense "franchises." Nor is Ace an integrated chain retail store like The Home Depot or Walmart, whose retail outlets are all owned by the same corporate entity.

54. Ace Member Stores control Ace Hardware Corporation through the Board of Directors. Member Stores elect the Board of Directors and have the power to remove any Director by a two-thirds vote of the membership. At least 75% of the Board of Directors must be owners or managers of Ace Member Stores.[35] Ace Hardware Corporation's Directors thus directly benefit from Ace's illegal price coordination and market allocation. For instance, current Ace Board member David Cripe owns Defendant Whitmore Investments, Inc., owner and operator of Whitmore Ace Hardware, a 14-store chain of Ace Hardware stores in Illinois. Whitmore Ace includes locations that compete with the Palos Ace Hardware and Duke's Ace Hardware stores

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[33] Ace Hardware Corporation, 2016 Annual Report at 4, 10.

[34] Ace Hardware Corporation, 2025 Annual Report at 4, 12.

[35] Ace Hardware Corporation, 2021 Annual Report at 13, 62 (explaining that 75% of the Corporation's Board of Directors must be "member directors" who own or operate an Ace Member Store).

from which Plaintiff Sean Twomey purchased, while operating in the same Price Zones and using the same Price Levels as these stores.[36]

55. Not all Ace Member Stores operate under the "Ace" brand. While many Members include "Ace" in their name or prominently advertise their affiliation with the Cooperative, a significant portion of Ace Member Stores are Individually Branded Stores and do not have the right to use "Ace" branding or trademarks.[37] This means that thousands of customers who patronize Individually Branded Stores do not know that those stores belong to the Ace Cooperative and collude with other Ace Member Stores.[38] In 2021, the Ace Cooperative reported that 8% of Member Stores, or 370 stores, were Individually Branded Stores.[39] The Ace Cooperative's Individually Branded Stores participate in and benefit from the anticompetitive practices alleged in this complaint.

56. The Ace Cooperative adds stores when Ace Member Stores are established at new locations or when existing non-Ace stores apply for and are granted admission to the Ace Cooperative. The Cooperative added between 167 and 174 stores each year between 2018 and

[36] Defendant Whitmore Investments Inc.'s Whitmore Ace location in Willowbrook, Illinois, is just 15 miles from Palos Ace Hardware, is also in Price Zone 16004, and has chosen Price Level 1—indicating that it closely coordinates pricing across its inventory with its Palos Ace Hardware competitor from which Plaintiff purchased. Defendant Whitmore Investments also includes multiple locations in Price Zone 16001 that have chosen Price Level A, indicating that they closely coordinate pricing with the Duke's Ace Hardware location from which Plaintiff purchased. One of these stores is the Whitmore Ace hardware in Homer Glen, Illinois, which is just 12 miles from Duke's Ace in Palos Hills, Illinois.

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[37] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Ace Hardware Membership Agreement (Nonbranded)*, Article I, Section 1 ("[T]he Member is NOT being granted any license to use the word 'ACE,' 'ACE Hardware' or any other registered or unregistered trademarks, service marks, logos, or commercial symbols owned by the Company (hereinafter individually and collectively referred to as the "Marks") to identify or promote the retail business operated by the Member at the member location . . . .").

[38] For example, in 2022, Ace Hardware Corporation reported that Little Hardware in Mountain Brook, Alabama, was an Ace Cooperative Member. *See* Ace Hardware Corporation, 2022 Franchise Disclosure Document, *Active Member Stores Through January 1, 2022*. Yet Little Hardware does not identify itself to customers as an Ace Cooperative Member Store. *See Gallery*, Little Hardware, http://little-hardware.com/gallery/ (last visited May 6, 2026).

[39] Ace Hardware Corporation, 2021 Annual Report at 2.

2020.[40] More than half of those additions were newly created hardware stores, while the remainder were existing stores converting to Ace and joining the Cooperative.[41] From 2016 to 2020, the number of retailers with a single Ace store, instead of multiple branches, shrank from 2,114 to 2,017; meanwhile, the number of retailers with multiple Ace stores grew from 624 to 687, and the number of Ace Corporate Stores grew from 98 to 202.[42] The Ace Cooperative's growth has continued in recent years. 215 new Ace Member Stores opened in 2024.[43]

57. Ace Hardware Corporation also retains the right to terminate Ace Cooperative Members at any time.[44] In 2021, 78 Ace Member Stores were terminated, closed, or otherwise ended their memberships.[45]

58. In a major departure from its image as a cooperative of local stores, Ace Hardware Corporation has spent the last decade acquiring stores. Ace Hardware Corporation now owns and operates over 250 Ace Member Stores through Defendant Ace Retail Group, Inc., and previously operated them through Ace Retail Holdings LLC (now the owner of Ace Retail Group, Inc.). These Ace Corporate Stores are Members of the Cooperative and operate under brands including

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[40] *Id.* at 4.

[41] *Id.* at 5.

[42] *Compare* Ace Hardware Corporation, 2019 Annual Report at 4 *with* Ace Hardware Corporation, 2021 Annual Report at 4.

[43] John Venhuizen, *A message from the President & CEO*, Ace Hardware Corporation (2024), https://www.acehardware.com/2024-annualreport/message-to-shareholders.

[44] Ace Hardware Corporation, 2022 Franchise Disclosure Document, *Ace Hardware Membership Agreement (Nonbranded)*, Article III, Section 1 ("This Agreement may be terminated with or without cause at any time by either the Member or the Company by giving written notice of such intention to terminate to the other party.").

[45] *Id.* at *Former Operating Members* ("Listed below are the names, last known addresses and telephone numbers of every Member under a Membership Agreement with the Company whose membership has, within the 12-month period immediately preceding January 1, 2022, been terminated, canceled, transferred, non-renewed or who has, during the same time period, otherwise voluntarily ceased to do business pursuant to the Membership Agreement.").

"Westlake Ace," "Great Lakes Ace," and "Buikema's Ace."[46] These Ace Corporate Stores participate in and benefit from the anticompetitive practices alleged in this complaint.[47]

59. Ace Hardware Corporation's move toward corporate ownership began in 2007. That year, Ace Hardware Corporation executives announced a plan to take over ownership of Ace Member Stores and convert the Cooperative into a traditional corporation. Less than a month later, the executive team scrapped that plan.[48] In the years that followed, the Ace Cooperative pursued its goal of centralized price-setting without merging all the stores into one corporate entity. Instead, it became the Cooperative Cartel that exists today: illegally coordinating pricing across stores, maintaining strict control of store locations, and channeling ownership of stores into the hands of private equity firms, multi-store chains, and Ace Hardware Corporation itself.

60. The Ace Cooperative nonetheless continues to cultivate an image that its Member Stores are independent small businesses competing for customers in their local community. Ace Hardware Corporation's "About Us" webpage reads:

> We are your local hardware store and we are part of your community. Ace Hardware has over 5,000 stores around the world with the majority of those stores independently owned and operated by local entrepreneurs. These hard working men and women are part of the fabric of your community. They are small business owners who are local and loyal…just like it ought to be. While others have become large and impersonal, at Ace, we've remained small and very personal. That's why we say a visit to Ace, is like a visit to your neighbor.[49]

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[46] *About Us*, Westlake Ace Hardware, https://westlakehardware.com/about/ (last visited May 6, 2026) ("A division of Ace Hardware Corporation, Ace Retail Holdings currently owns and operates more than 250 Ace Hardware stores nationwide under the Breed & Co., Buikema's Ace, Dennis Company Ace, Great Lakes Ace, Westlake Ace, and Outer Banks Ace brands.").

[47] *See* Ace Hardware Corporation, 2022 Franchise Disclosure Document, *Active Member Stores Through January 1, 2022*.

[48] *Ace Hardware Accounting Off By $154 million*, NBC News (Sept. 5, 2007), https://www.nbcnews.com/id/wbna20613194; SEC Form 425, Ace Hardware Corporation (Sept. 14, 2007), https://www.sec.gov/Archives/edgar/data/2024/000095013707014169/c18626e425.htm.

[49] *About Ace Hardware*, Ace Hardware, https://www.acehardware.com/about-us, (last visited May 6, 2026).

Ace similarly states in public disclosures that Member Stores "face competition from other member stores."[50]Ace Member Stores emphasize their competitive independence and local roots as well. In the words of the founder of a chain of over a dozen Ace Member Stores, the Ace's Cooperative structure "means we can offer competitive pricing, top-tier products, and national brand recognition—while remaining deeply local in our impact and decision-making."[51] According to this store owner, the Ace Cooperative's structure means "keeping dollars in my community" and that customers "stay because they see we are their neighbors."[52] A survey of customers of Palos Ace Hardware revealed that 48.8% shopped there "to support local businesses."[53]

61. The Ace Cooperative's practice of holding itself out as comprising local, independent competitors, while the Cooperative is engaged in the collusive conduct described in this complaint, recalls the circumstances in *United States v. American Linseed Oil Co.*, where the Supreme Court condemned the exchange of competitively sensitive price and sales data among independent linseed crushing businesses and the company that facilitated that exchange. 262 U.S. 371 (1923). The Court explained:

> The record discloses that defendants, . . . theretofore conducting independent enterprises along customary lines, suddenly became parties to an agreement which took away their freedom of action by requiring each to reveal to all the intimate details of its affairs. . . . With intimate knowledge of the affairs of other producers, and obligated as stated, but **proclaiming them selves competitors, the subscribers went forth to deal with widely separated and unorganized customers necessarily ignorant of the true conditions**. Obviously they were not bona fide competitors; their claim in that regard is at war with common experience, and hardly compatible with fair dealing.

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[50] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Item 12*.

[51] Gina Schaefer, *Main Street Needs Ace Hardware Business Models More Than Ever*, RealClear Markets (Sept. 6, 2025), https://www.realclearmarkets.com/articles/2025/09/06/main_street_needs_ace_hardware_business_models_more_than_ever_1133166.html.

[52] *Id.*

[53] Kate Klein, Melanie Moul, & Todd Taber, *What's Your Price Image*, Hardware Retailing Publ'n p. 45 (Aug. 2018), https://www.hardwareretailing.com/wp-content/uploads/2018/07/Price-Perception.pdf.

Id. at 389–90 (emphasis added). The Ace Cooperative's cultivated image as a cooperative of independent small businesses that compete in local markets leads customers to believe that if one Ace Member Store tries to overcharge them, they will be able to find a lower price at another. This is at odds with the reality of cooperation between these stores behind the scenes. As in *American Linseed Oil*, Ace Member Stores are "not bona fide competitors," and customers shop at Member Stores "necessarily ignorant of the true conditions." *Id.* at 390.

C. The Ace Cooperative's Role in the Convenience Hardware Market

62. According to Ace Hardware Corporation, Ace Member Stores compete in the market for "convenience hardware," the portion of the hardware industry "characterized by purchases primarily of products related to home improvement or repair."[54] These convenience hardware store customers are "mission shopper[s] who value[] helpful service [and] convenience" and whose "purchases are typically lower ticket-price items" for smaller DIY projects.[55]

63. Convenience hardware markets are highly local; stores compete for customers by locating themselves in close proximity to residential areas and find their customer base in those nearby residents. In a 2021 interview, Ace Hardware Corporation Chief Marketing Officer Kim Lefko highlighted the fact that "75% of the U.S. population is within 15 minutes of their local Ace store."[56] This proximity helps ensure, in Ms. Lefko's words, that Ace Member Stores are "local small businesses" that "attract their local customer."[57]

64. Both customer needs and the local nature of convenience hardware stores distinguish Ace Member Stores from "large-format" hardware stores such as Home Depot and Lowe's. "The core customers" for these stores, Ace Hardware Corporation explains, are "value

[54] Ace Hardware Corporation, 2021 Annual Report at 5; *see also* Ace Hardware Corporation, 2025 Annual Report at 26 ("The Company's Retailers generally compete in the $61.6 billion 'convenience hardware' segment" of the "overall home improvement industry").

[55] Ace Hardware Corporation, 2021 Annual Report at 5.

[56] Paul Talbot, *Inside The Ace Hardware Marketing Strategy*, Forbes (May 20, 2021), https://www.forbes.com/sites/paultalbot/2021/05/20/inside-the-ace-hardware-marketing-strategy.

[57] *Id.*

customers who are driven by larger scale home building and home improvement projects."[58] The fact that these customers are typically working on larger projects, are seeking savings on larger purchases, and are frequently commercial businesses means that they are willing to travel farther distances to their hardware suppliers than convenience hardware store customers are.

65. The Ace Cooperative is one of only two large retail hardware cooperatives in the United States serving convenience hardware stores. The other is Do it Best Corp. ("DIB").[59] While both Ace Hardware Corporation and DIB provide retail cooperative services to convenience hardware stores, the Ace Cooperative and DIB are distinct. Most significantly, DIB does not invest in national advertising. Ace Hardware Corporation spends in excess of $300 million annually promoting its stores' brand—money that is not returned to Cooperative Members in the form of a rebate or lower purchasing costs. Part of DIB's pitch to prospective cooperative members is that these stores receive low-cost wholesale purchasing without "any add-on costs like national advertising," and that it offers cooperative members an "industry-leading year-end rebate."[60]

66. As of 2021, Ace Hardware Corporation reported that its domestic Member Stores captured "an estimated 28 percent of the domestic convenience hardware market," as measured by nationwide revenue.[61] Ace's share of nationwide convenience hardware revenue rose to 32% in 2025.[62] These figures reflect the scope of the Ace Cooperative's business; they do not represent market shares for antitrust purposes, as those market shares are based on the local geographical area in which convenience hardware stores compete for customers' business. *See* Part IV.B, below.

67. By admitting it does not court "value customers," the Ace Cooperative acknowledges another fact about its Member Stores: their prices are relatively high. In the words

[58] Ace Hardware Corporation, 2021 Annual Report at 5.

[59] DIB acquired True Value in 2024. The True Value brand continues to operate as a subsidiary of DIB.

[60] *Why Do it Best*, Do it Best, https://hardware.doitbestonline.com/why-do-it-best/pricing-models/ (last visited May 6, 2026).

[61] Ace Hardware Corporation, 2021 Annual Report at 5.

[62] Ace Hardware Corporation, 2025 Annual Report at 5.

of Ace Hardware Corporation pricing strategy manager Andy Voelker, the Ace Cooperative's "pricing strategy is not to go out and be the market leader,"[63] and the Cooperative knows its Member Stores are "not going to be the lowest price in town."[64]

68. Ace Member Store prices appear to be substantially higher than the average convenience hardware store. Ace Hardware Corporation reported Q1 2025 retail gross margins of 47.9% for Ace Corporate Stores[65]—over 5% higher than the average store in the convenience hardware market.[66] Ace Corporate Stores frequently pick the lowest price level available to Members (Price Level A), suggesting that profit margins at other Ace Member Stores are higher, or at least comparable, to the above-average margins at stores owned by Ace Hardware Corporation. These higher gross margins at Ace Member Stores are not likely the product of lower input costs, as most convenience hardware stores are members of either Ace or DIB, and DIB stores enjoy comparable—and likely lower—cost of goods sold when compared to Ace Member Stores. In 2026, Ace Hardware Corporation reported that its cooperative wholesale business—the

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[63] *360pi Customer Testimonial – Andy Voelker, Ace Hardware* (YouTube Oct. 22, 2013), https://youtu.be/AfPXwGAVY-I?feature=shared&t=88.

[64] Andrew Nusca, *The Future of Retail is Dynamic Pricing. So Why Can't We Get It Right?*, ZDNET (Oct. 2, 2013), https://www.zdnet.com/article/the-future-of-retail-is-dynamic-pricing-so-why-cant-we-get-it-right/.

[65] *Ace Reports 'Record-Breaking' Q1 Revenues*, HBS Dealer (May 14, 2025), https://hbsdealer.com/ace-reports-record-breaking-q1-revenues.

[66] *2024 Market Measure: The Industry's Annual Report*, North American Hardware and Paint Association (2024), https://yournhpa.org/wp-content/uploads/2024/01/2024-Market-Measure-Report-NHPA.pdf. Ace Hardware Corporation appears to use the North American Retail Hardware Association's measure for the overall "Hardware Stores" market—as distinct from the "Home Centers" and "Lumberyards" markets—as representative of the "convenience hardware segment." *See* Ace Hardware Corporation, 2021 Annual Report at 5 ("According to a report by the North American Retail Hardware Association, U.S. convenience hardware store sales were estimated at approximately $61.8 billion in 2020. Ace estimates that its approximately 4,600 domestic outlets generated approximately $17.1 billion in retail sales in 2020, capturing an estimated 28 percent of the domestic convenience hardware market, up from an estimated 25 percent in 2019."); *2020 Market Measure: The Industry's Annual Report*, North American Hardware and Paint Association (2020), https://yournhpa.org/wp-content/uploads/2021/01/2020-Market-Measure-Dan.pdf (reporting the total size of the 2020 "Hardware Stores" segment as $61.8 billion, the same figure quoted in Ace's annual report).

business unit that sells to Member Stores—earned gross profits of 13.8% in the prior year.[67] DIB's wholesale business, meanwhile, enjoyed gross profits of just 7.88% in its fiscal year ending in 2025.[68] The Ace Cooperative's wholesale business is thus almost twice as profitable as DIB's. Ace Member Stores' gross margins also exceed those of stores in adjacent markets. The Home Depot, for instance, reported gross margins of 33.8% in Q1 2025—approximately two-thirds of the reported margins for Ace Corporate Stores for that quarter.[69]

69. Ace Member Stores have also enjoyed increasing profits for many years. In 2022, Ace Hardware Corporation reported that same-store retail gross profits increased *every year* from 2009 through 2022.[70] Once again, these increases in retail profits appear to be driven by price increases, not lower costs of goods sold. The cost of purchasing hardware from manufacturers rose 5.4% in 2022,[71] but that same year Ace Hardware Corporation reported that same-store retail gross profits grew 3.6%.[72] Furthermore, between 2018 and 2025, the cost of purchasing hardware from manufacturers increased approximately 38%,[73] but Ace Member Stores owned by Ace Hardware Corporation still saw their gross profits increase by 5%.[74] In short, Ace Member Stores' retail

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[67] Ace Hardware Corporation, 2025 Annual Report at 4.

[68] Do It Best, 2025 Franchise Disclosure Document, *Consolidated Statements of Income*.

[69] Q1 2025 10-Q at 16, The Home Depot, https://ir.homedepot.com/~/media/Files/H/HomeDepot-IR/reports-and-presentations/quarterly-earnings/2025/hd-q1-2025-10q.pdf.

[70] John Venhuizen, *A message from the President & CEO*, Ace Hardware Corporation (2022), https://www.acehardware.com/2022-annualreport/message-to-shareholders.

[71] U.S. Bureau of Labor Statistics, *Producer Price Index by Industry: Hardware Manufacturing*, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/PCU332510332510 (last visited May 6, 2026).

[72] *Id.*

[73] *Id.*

[74] Ace Hardware Corporation, 2021 Annual Report at 46; *Ace reports 'record-breaking' Q1 revenues*, HBS Dealer (May 14, 2025), https://hbsdealer.com/ace-reports-record-breaking-q1-revenues.

profits have grown steadily even as their cost of goods sold has risen—thanks to steadily increasing prices.

70. The Independent Member Store Defendants, along with other owners of Ace Member Stores, have reaped the rewards of these higher prices. The average Ace Member Store earns $3.5 million in annual revenue, with store owners taking home over 10% of that revenue in the form of operating profits not reinvested in the business.[75] And, as noted above, the Ace Cooperative has doubled its advertising spend and its profit payouts to Members over the last decade.[76]

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71. Ace Member Stores, including the Independent Member Store Defendants, have been able to implement steady price increases for many years as a result of Defendants' successful efforts to facilitate and direct illegal price coordination alongside the allocation of local retail markets. The Cooperative Cartel's illegal price coordination is detailed in Part II below. The market allocation scheme is then discussed in Part III.

II. Illegal Price Coordination and Information Sharing

72. The Ace Cooperative has developed and implemented systems to collect price and output information from its Member Stores, share that information among competing Member Stores, and use that information to reduce competition among Member Stores.

73. The process begins with Ace Hardware Corporation's broad collection of Member Stores' competitively sensitive price and sales data through Epicor's point-of-sale software, discussed in II.A below. Ace Hardware Corporation then shares among Member Stores up-to-date data about what their local Ace Member Store competitors are charging for each product (on a SKU-by-SKU basis), how many units of each SKU their local competitors are selling, and the

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[75] Yiren Lu, *Would You Turn Your Small Business Into a Franchise? Here's Why Everyone From Hardware Stores to Hot Dog Shops Are Doing It*, Entrepreneur (Sep. 20, 2023), https://www.entrepreneur.com/franchises/would-you-turn-your-small-business-into-a-franchise-heres/458406.

[76] John Venhuizen, *A message from the President & CEO*, Ace Hardware Corporation, (2024), https://www.acehardware.com/2024-annualreport/message-to-shareholders.

profit margins their competitors are earning on each SKU. Ace Hardware Corporation also informs the Member Store of the profit margins they would earn if they raised the prices of particular SKUs to match competitors' prices. The Ace Cooperative does all of this through a combination of Epicor's software and a software program owned by Ace Hardware Corporation called "Mango Report," which integrates with Epicor's software. The exchange of this information among retail competitors is, on its own, an antitrust violation. The details of this information exchange are discussed in section II.B below.

74. As explained in section II.C, Ace Hardware Corporation also uses its Member Stores' competitively sensitive data to develop localized price recommendations and direct Member Stores to raise their prices, including by issuing "Critical Price Change" alerts that direct Member Stores to raise prices on particular items. The Ace Cooperative's price recommendations are tailored to local markets using "Price Zones." Price Zones ensure that Ace Member Stores' retail prices across their inventory move in coordination with their local competitors. Moreover, when the Ace Cooperative and Epicor direct and signal Member Stores to raise prices on particular items, the Members know that other Member Stores in the same Price Zone received the exact same direction—and that stores in nearby Price Zones likely received similar guidance. Ace Hardware Corporation facilitates even more precision by providing Member Stores with "Level Pricing" tools. These levels begin with a baseline "Ace retail" price for the particular Price Zone ("Level A"), and then increase to a "Level 1" price if stores want higher prices and margins, or a "Level 2" price for stores that want the highest prices and margins.

75. This "Level Pricing" system has two distinct benefits for Ace Member Stores. First, it allows stores in the same Price Zone to coordinate *price movement*—and stabilize prices—even if they choose to have different Price Levels. When the Cooperative increases its recommended pricing for an item in a given Price Zone, the Ace retail, Level 1, and Level 2 prices increase in tandem. Second, in addition to enabling parallel movement, Level Pricing allows Member Stores to commit to particular prices along with their local competitors. Level Pricing thus functions as a form of *pre-commitment* to a particular price, in addition to the pre-commitment that comes from

following price recommendations in a given Price Zone, since stores know in advance that a competitor store in their Price Zone will update its prices to the value that corresponds to the Ace Cooperative's new recommended price adjusted for the Member Store's chosen Price Level. In short, by adopting a Price Level, Ace Member Stores agree to use the price recommendations within their assigned Price Zone, thereby coordinating prices in tandem with their local competitors, agree to charge the same prices as stores in their Price Zone that use the same Price Level, and agree to raise prices at the same time and by the same amount as stores in their Price Zone that choose the same Price Level.

76. Examples of the coordinated, higher prices Ace Member Stores have charged through these schemes are detailed below, including evidence based upon prices at the stores from which Plaintiff Sean Twomey purchased—both of which have implemented the Ace Cooperative's price coordination schemes alongside their local competitors. The evidence shows that Ace Member Stores generally—and the Member Stores from which Plaintiffs purchased in particular—have agreed with Defendants and one another to participate in the Ace Cooperative's illegal price coordination schemes. The reason they have agreed is that the scheme allows them to earn higher profits.

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77. Ace Member Stores are independent retailers that compete with each other and other convenience hardware stores in their local markets. The conduct described above and detailed below thus constitutes horizontal price fixing. It also constitutes an anticompetitive information sharing scheme. Ace Hardware Corporation and Ace Member Stores' collusion to increase retail sales prices is irrelevant to and outside the scope of the otherwise justified business of a buyers' cooperative. Yet Ace Member Stores illegally coordinate in this manner to implement anticompetitive price increases at the expense of local consumers.

A. Ace Hardware Corporation and its Member Stores Agree to Collect and Share Competitively Sensitive Price and Output Data

78. Since at least 2010, Ace Hardware Corporation and its Member Stores have entered into agreements that enable Ace Hardware Corporation to collect all of its Member Stores' "point

of sale data, inventory management data, and Ace Rewards customer data."[77] This agreement, entitled "Data Collection Program Agreement," expressly states that the data will be "shared by Ace with other retailers."[78] As of 2025, and continuously since at least 2018, Ace Member Stores have been required to enter into this Data Collection Program Agreement as a condition of participating in Ace Rewards.[79] The Ace Rewards program is a popular customer loyalty program in which most Ace Member Stores participate and which the Ace Cooperative directs stores to adopt as part of its "General Member Standards."[80] Since at least 2018, Member Stores have agreed to the following, as a condition of participating in Ace Rewards:

> On a nightly basis, you agree to transmit to Ace, via the Ace Rewards Functionality, all Consumer Data, for both Program and non-Program customers, and you agree to program your POS System and any applicable third party programs, to interpret Ace Rewards discount price files/hotsheets or other similar provided updates.[81]

79. As part of participating in Ace Rewards, an Ace Member Store agrees to "program [its] POS System and any applicable third party programs, to interpret . . . hotsheets or other similar provided updates."[82] Ace Member Stores thus agree not only to share data for the purpose of price coordination with their local competitors, but also to program their point-of-sale software to implement the coordinated prices. Upon information and belief, one of the "applicable third party programs" included in this agreement is the "Mango Report"

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[77] Ace Hardware Corporation, 2011 Franchise Disclosure Document, *Data Collection Program Agreement*.

[78] *Id.*

[79] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Ace Rewards Retailer Participation Agreement*.

[80] Ace Hardware Corporation, 2022 Franchise Disclosure Document, *General Member Standards*.

[81] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Ace Rewards Retailer Participation Agreement*.

[82] *Id.*

information sharing software, described below, which was created by an Ace Member Store owner and widely used by Ace Member Stores before its acquisition by Ace Hardware Corporation, and which the Ace Cooperative includes on a list of "Things to Implement Now" for Ace Member Stores.[83]

80. The hotsheets that Ace Member Stores receive are not limited to updates about Ace Rewards deals—or to stores that participate in Ace Rewards. These hotsheets are part of the set of "Core Retail Services" the Ace Cooperative provides to Member Stores as part of their agreement to be Cooperative Members, and for which "[e]ach retailer is billed $168 monthly," irrespective of whether they join Ace Rewards.[84] Describing these retail services, Ace Hardware Corporation explains that they include access to "Retail Pricing" and "Electronic Hotsheets" that provide "complete product updates."[85]

81. To summarize, Ace Hardware Corporation collects sales (e.g., price and output) data on a daily basis from local retail stores that participate in the Ace Rewards program, which includes all of the Independent Member Store Defendants. It does this by, among other incentives, requiring Member Stores that participate in its Ace Rewards program—the vast

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[83] *OSAT Playbook 8 Drivers: Tools to Increase Overall Customer Satisfaction*, Ace Hardware Corporation p. 12-13, 17, https://mydigimag.rrd.com/publication/?i=814521&p=12&view=issueViewer (last visited May 6, 2026).

[84] Ace Hardware Corporation, 2021 Program Overview p. 27.

[85] *Id.*

majority of Members[86]—to send nightly transmissions of sales price and quantity data.[87] These transmissions provide granular insight into individual customer transactions, the specific products bought, and the prices at which they were sold. Ace Hardware Corporation also reserves the broad right to collect data from Member Stores' computer systems "to improve [its] business."[88] Ace Hardware Corporation then disseminates localized hotsheets informed by this data to Member Stores across the Ace Cooperative, regardless of whether they participate in Ace Rewards. The Cooperative, as an entity owned and controlled by Ace Member Stores, acts on Ace Member Stores' behalf in facilitating these price collusion schemes. But Member Stores also expressly contract with the Cooperative to support and implement the collusive pricing facilitated by the Cooperative for each Member Store's benefit. In other words, Ace Member Stores individually agree to contribute to and participate in the anticompetitive schemes of the Cooperative Cartel.

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[86] As of 2018, the majority of the Ace Cooperative's 4,600 stores participated in the program and participation is growing. *See* Laura Klepacki, *Ace's Rewards Revamp: An Updated Rewards Card Program Receives a Fresh Look, New Name and Various Improvements*, HBS Dealer (Feb. 20, 2018), https://hbsdealer.com/news/aces-rewards-revamp-updated-rewards-card-program-receives-fresh-look-new-name-and-various-i. As of at least 2022, the Ace Cooperative's "Brand Standards" for Members now include a requirement to participate in the Cooperative's Ace Rewards program, "provided your technology is capable," meaning the percentage of stores participating in Ace Rewards is much higher today. Ace Hardware Corporation, 2022 Franchise Disclosure Document, *General Member Standards*.

[87] *See* 2022 Ace Rewards Retailer Participation Agreement at 3 ("On a nightly basis, you agree to transmit to Ace, via the Ace Rewards Functionality, all Consumer Data, for both Program and non-Program customers, and you agree to program your POS System and any applicable third party programs, to interpret Ace Rewards discount price files/hotsheets or other similar electronically provided updates.").

[88] Ace Hardware Corporation, 2022 Franchise Disclosure Document, *Item 11: Franchisor's Assistance, Advertising, Computer System, and Training* ("We have the right to access and collect data from your computer system related to your store's operation to improve our business.").

82. Epicor has knowingly developed, sold, and maintained the software that runs the Ace Cooperative's data collection, dissemination, and price coordination efforts. Epicor enters agreements directly with Ace Member Stores, and with the Ace Cooperative, to provide these services. It is Epicor that makes the Cooperative's data collection possible and collects the data in question by operating Ace Member Stores' point-of-sale software. And, as shown in detail below, it is also Epicor that facilitates the local market price coordination by providing the software and technical guidance to stores necessary to execute the Ace Cooperative's scheme. Ace Hardware Corporation's description of its "Core Retail Services" in its Program Overview for prospective Member Stores falls within a section entitled "A. Point of Sale – Epicor Eagle for Windows (E4W)."[89] The opening line of this section reads:

> One common technology platform allows Ace retailers to more seamlessly execute Ace's tested and documented best practices, provide a positive customer experience and operate efficiently. Epicor Eagle for Windows (E4W) is the only in-store technology solution currently endorsed by Ace. E4W's integration with ACENET and other Ace systems provides retailers the tools they need to take care of the customer, run their stores efficiently on a daily basis and do business with Ace.[90]

83. The Ace Cooperative's use of Epicor's Eagle software extends back to the 2000s,[91] but beginning in 2012, Ace Hardware Corporation began to invest in more efficiently retrieving and processing sales data from its Member Stores—investments that were part of the Cooperative's growing partnership with Epicor. That year Ace Hardware Corporation's Chief Information Officer Michael Elmore announced that the Cooperative would be "tightening [the] integration between the Epicor store system and Ace business systems."[92] Over the subsequent years, Ace

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[89] Ace Hardware Corporation, 2021 Program Overview p. 26.

[90] *Id.*

[91] *Ace Hardware and Activant Solutions Extend Partnership*, Chain Store Age (Aug. 31, 2009), https://chainstoreage.com/news/ace-hardware-and-activant-solutions-extend-partnership.

[92] Marianne Wilson, *Epicor extends agreement as Ace Hardware's only recommended POS provider*, Chain Store Age (Aug. 9, 2012), https://chainstoreage.com/news/epicor-extends-agreement-ace-hardwares-only-recommended-pos-provider.

Hardware Corporation continued to invest in data collection software and hardware, apparently in an effort to increase the speed at which it could receive and process its Member Stores' sales and output data, and convert that data into pricing guidance. As of February 2025, Ace Hardware Corporation collects and analyzes "daily retail sales data" from "approximately 3,700 Ace retailers."[93] Upon information and belief, all or almost all of this daily data is delivered by Epicor software.[94] Given the critical role Epicor's Eagle software plays in the exchange of this competitively sensitive information, it is unsurprising that Epicor Eagle is used by a substantial majority of Ace Member Stores and that Ace Hardware Corporation requires all new Members to implement the software system.[95]

B. Ace Hardware Corporation Facilitates Member Stores Sharing Competitively Sensitive Data

84. Ace Member Stores, including those owned and operated by the Independent Member Store Defendants, share up-to-date price and output data across the items they sell through an Ace Hardware Corporation-owned software called "Mango Report."[96] This software was

[93] *Ace Hardware Reports Fourth Quarter and Full Year 2024 Results*, Ace Hardware Corporation (Feb. 18, 2025), https://newsroom.acehardware.com/ace-hardware-reports-fourth-quarter-and-full-year-2024-results/.

[94] Over 3,400 Ace Member Stores used Epicor as their point-of-sale provider as of 2020. *See Epicor and Ace Hardware Extend Strategic Partnership,* Business Wire (Mar. 12, 2020), https://www.businesswire.com/news/home/20200312005157/en/Epicor-and-Ace-Hardware-Extend-Strategic-Partnership; Dan Berthiaume, *Ace Hardware Doubles Down On POS Partnership*, CSA (Mar. 12, 2020), https://chainstoreage.com/ace-hardware-doubles-down-pos-partnership. Since at least 2020, the Ace Cooperative has required all new, non-branch Member Stores to use Epicor's point-of-sale system. Ace Hardware Corporation, 2021 Annual Report at 62; *see also* Ace Hardware Corporation, 2021 Annual Report at 10 ("Eagle for Windows – This third-party system is a distributed in-store computer that provides POS, inventory management, accounts receivable, accounts payable, general ledger and reporting capabilities. . . . The system allows the Retailer to create computer-generated orders for stock replenishment, participate in the Ace Rewards customer loyalty program, and is integrated to a number of the enterprise systems at the Ace corporate headquarters.").

[95] *Id.*

[96] *OSAT Playbook 8 Drivers: Tools to Increase Overall Customer Satisfaction*, Ace Hardware Corporation p. 12-13, 17, https://mydigimag.rrd.com/publication/?i=814521&p=12&view=issueViewer (last visited May

created by an Ace Member Store owner and used by Ace Member Stores until the Cooperative acquired it.[97] Ace Hardware Corporation characterizes use of the software as "a major piece of Ace's inventory management best practices" aimed at helping Ace stores "maximize profits."[98] In a guide for stores, Ace Hardware Corporation mentions Mango Report twice, in two locations, under the header "Things to Implement Now."[99] Ace Hardware Corporation sells access to its Mango Reports to individual Ace Member Stores. As of February 2025, it was used by a substantial majority (over 3,600) Member Stores—approximately the same number of stores using Epicor.[100] Upon information and belief, as Epicor users (and Ace Rewards participants), the owners and operators of Palos Ace Hardware and Duke's Ace Hardware have agreed to share competitively sensitive information that is incorporated into Mango Reports, to receive Mango Reports on a monthly basis, and to rely upon the Mango Reports to make pricing decisions.

85. Mango Report works through "daily data feeds" from Ace Member Stores' point-of-sale systems through Epicor.[101] Ace Hardware Corporation and Epicor take Member Stores' real-time competitively sensitive information, including price and sales data, and turn it into a monthly report on a variety of issues related to inventory and pricing. The data shared in the

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6, 2026).

[97] Gina Schaefer, *Time to Count the Mangos*, The Hardware Journal (Dec. 10, 2024), https://thehardwarejournal.ie/2024/12/10/time-to-count-the-mangos/. A 2025 job posting for a "Mango Report Specialist" at Ace Hardware Corporation describes the software as "recently purchased by Ace." *Mango Report Specialist – Ace Hardware*, Teal, https://www.tealhq.com/job/mango-report-specialist_7ea1ad9b6f5defc0df231f9d1e543d57eed0a.

[98] *Id.*

[99] *OSAT Playbook 8 Drivers: Tools to Increase Overall Customer Satisfaction*, Ace Hardware Corporation p. 12-13, 17, https://mydigimag.rrd.com/publication/?i=814521&p=12&view=issueViewer.

[100] *Mango Report*, Mango p. 1 https://hc.mangoreport.com/hc/en-us/article_attachments/26739916088717 (last visited May 6, 2026) (highlighting "3,625 Ace Stores using Mango").

[101] *Mango Report Specialist – Ace Hardware*, Teal, https://www.tealhq.com/job/mango-report-specialist_7ea1ad9b6f5defc0df231f9d1e543d57eed0a (last visited May 6, 2026).

monthly "Mango Report" to Ace Member Stores includes a SKU-by-SKU (i.e., item-by-item) accounting of the products the store carries, the units in stock, the units sold, the price at which the units sold, and a variety of other metrics.[102]

86. Critically, these Mango Reports then provide a variety of metrics that allow Member Stores to compare the current prices and sales of the items in their store to the prices and sales of the same items by competitor Member Stores in their "peer group." These peer groups are regionally defined, as evidenced by Mango Report adding a "Texas Gulf Coast" peer group as part of its January 2022 updates.[103]

87. In a single monthly report, Mango Report shares the following data on a SKU-by-SKU basis regarding each participating Ace Member Store's peer group of competing Member Stores:

- The "median retail price for the SKU in peer stores," presented immediately after "the retail price for the SKU in your store";
- The "percentage of sales a SKU sells on promotion" at peer stores, presented immediately after the same information for the store receiving the report;
- The median quantity on hand for the SKU "in your peer group as of the report date," presented immediately after the store's quantity on hand "at the time the report was generated (usually on the last day of the month)";
- An estimate based upon the store's peer group of "how many annual units your store should be selling," immediately after the "units your store has sold";

[102] *Report Documentation – Product Mix*, Mango Report Help Center, https://hc.mangoreport.com/hc/en-us/articles/21865935398413-Product-Mix (last visited May 6, 2026).

[103] *Resources – Mango Report Change Log*, Mango Report Help Center, https://hc.mangoreport.com/hc/en-us/articles/23768372891789-Mango-Report-Change-Log (last visited May 6, 2026).

- The variance in annual sales dollars the store "should" earn from the SKU compared to what it did earn from the SKU, based upon the store's SKU price and output compared to its peer stores;
- The variance in gross profit the store "should" earn from the SKU, based upon the same comparison of the store's data to its peer stores.[104]

88. The same Mango Report webpage includes a sample spreadsheet showing some of the fields described above displayed for exemplar SKUs.[105] For a given SKU, columns K and L allow Ace Member Stores to compare their current product inventory to competitor Member Stores' inventory, columns M and N allow Member Stores to compare their units sold to their competitor Member Stores' sales, columns P and Q allow Member Stores to see how much their revenue and profit on the SKU deviate from what Mango Report calculates the store "should" earn based upon its competitor Member Stores' data, and columns R and S show the Member Store's current retail price for that SKU compared to competitor Member Stores' current retail prices.

89. As the Mango Report webpage acknowledges, its reports do not just provide Member Stores with competitively sensitive data about their nearby Member Store competitors' product prices and quantity sold—they also provide *guidance* to Members about what they "should" be selling and earning based upon their competitors' data, directing these stores to profitably increase prices on particular items. The software makes a calculation of the revenue and gross profit a store "should" earn on a given SKU, using the Member Store's peer group of other Ace Member Stores. The Cooperative uses this information exchange to restrain competition and signal Member Stores to engage in profitable price increases. When an Ace Member Store sees it is selling more units than its competitor Member Stores, but earning less in gross profit on the SKU than Mango calculates it "should" be earning based upon those same local competitors' data,

[104] *Report Documentation – Product Mix*, Mango Report Help Center, https://hc.mangoreport.com/hc/en-us/articles/21865935398413-Product-Mix (last visited May 6, 2026).

[105] *Id.*

the next step for the Member Store is clear: raise prices to maximize profits.[106] This is one way Independent Ace Stores, such as the stores from which Plaintiffs purchased, as well as Ace Corporate Stores, use this information to anticompetitively increase prices. An Ace Member Store can agree to provide and receive this nonpublic data, and learns of these opportunities to increase prices to match their competitors, only because Ace Hardware Corporation and Epicor collect and facilitate the sharing of competitively sensitive price and sales information from Ace Member Stores.

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90. Epicor software is required to use Mango Report. Before Ace Hardware Corporation acquired Mango Report, a 2021 Ace Hardware Corporation publication described Mango Report as "exclusive to Ace Hardware and Epicor Systems."[107] Epicor was aware then, and is aware now, that its software is used in conjunction with—and as a necessary component for—Mango Report to exchange competitively sensitive information among Ace Member Stores. The Epicor Eagle online "Help Now" guide includes a section on "Ace: Mango Integration" describing the ability of Eagle to pull data "directly from Mango systems."[108] Epicor even promotes the ability to integrate with Mango Report as a reason for stores to use its software. In a 2025 profile posted to Epicor's website of an Ace Member Store that implemented Epicor's software, Epicor Senior Product Marketing Manager Elizabeth Hawes writes that, as a result of adopting Epicor's software, the Ace Member was "able to integrate with Mango."[109]

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[106] *Id.*

[107] *Program Overview – Why Ace is the Place*, Ace Hardware Publ'n p. 27 (2021), https://online.flippingbook.com/view/707392899/ (last visited May 6, 2026).

[108] *Ace: Mango Integration*, Epicor, https://help.eaglesoa.com/34/en-n-eagle/index.htm#t=Ven_Proceds%2FAce%2FAce_Telecom%2FAce__Mango_Integration.htm&rhsearch=Ace%3A%20Mango%20Integration&rhhlterm=ace%20mango%20%E2%80%98mango%E2%80%99%20integration (last visited May 6, 2026).

[109] Elizabeth Hawes, *Real-Life Tales from the Point of Sales*, Epicor (Mar. 18, 2025), https://www.epicor.com/en-us/blog/technology-and-data/real-life-tales-from-the-point-of-sales/.

C. The Ace Cooperative Uses Member Stores' Sales Data to Direct and Facilitate Collusive Price Increases

91. In a 2013 press release, New Jersey-based networking systems provider Perle Systems explained that it was upgrading Ace Hardware Corporation's servers to better work with Epicor Eagle software and enable the Cooperative "to view and track retail sales data in real-time intervals," instead of with a "weeklong lag time."[110] Perle provided these servers to Ace Hardware Corporation so that the Cooperative could in turn provide them "to stores, fully loaded and ready to plug and play."[111] The press release quoted Ace Project Manager Laura Montesantos as stating that the system "allows dealers to share information while maintaining their independence."[112] Then, by "tracking POS [point-of-sale] data" with Epicor software, Perle explained, the Ace Cooperative would be able to "react quickly and correctly to consumer buying trends and patterns."[113] Specifically, Ace Hardware Corporation would use the data it collected from local Member Stores to "analyze at what price any individual product is most likely to sell for at retail" and make price recommendations on that basis. It continued, "With this capability, retailers in the co-op can boost margins and present a more consistent pricing image to consumers."[114] The press release thus not only acknowledged that the Ace Cooperative's data collection aimed to "boost margins" (i.e., raise prices), but also that it sought "consistent pricing image," suggesting that the Cooperative would use its pricing recommendations to fix prices across stores and limit price competition between Member Stores.

92. Today, Ace Hardware Corporation continues to use the competitively sensitive data it collects from Ace Member Stores to develop locally targeted recommended prices for Ace Member Stores. These recommendations are delivered in the form of weekly "hotsheets" that

[110] *Ace Hardware implements robust POS and inventory management system*, Perle, https://www.perle.com/applications_solutions/retail/ace_hardware.shtml (last visited May 6, 2026).

[111] *Id.*

[112] *Id.*

[113] *Id.*

[114] *Id.*

announce changes in the Cooperative's recommended price for particular products. Ace Hardware Corporation's 2021 Annual Report describes these hotsheets as part of its "Core Retail Services," explaining their role as follows:

> Retailers have access to an assortment of pricing-related services designed to improve gross margin dollars and enhance price image. These include pricing services such as Tailored Pricing and Tailored Hotsheets, and the ongoing pricing research needed for establishing and maintaining suggested Ace Retail prices.[115]

Ace Hardware Corporation thus acknowledges that its tailored pricing guidance is "designed to improve" Ace Member Stores' "gross margin dollars," meaning that the Cooperative guides stores to strategically increase retail prices based on their local market rather than compete against nearby independently owned and operated Ace Member Stores by reducing retail prices.[116] The hotsheets supplement the Mango Reports by providing weekly rather than monthly data, and covering only those items where the Ace Cooperative is directing a price change. As detailed below, the hotsheets include pricing for each Price Level localized to the Price Zone in which a given Ace Member Store operates. This means that Ace Member Stores can both move pricing in unison with their local Member Store competitors in the same or nearby Price Zones, and change pricing by the same amount as Member Stores that choose the same Price Level.

93. The Ace Cooperative has also worked with Epicor to develop the means for insisting that Member Stores implement price increases. Epicor's documentation describes "Ace Critical Price Changes," which identify prices that are "most in need of attention" for Ace Member Stores.[117] These notifications are issued by the Cooperative and Epicor after "analyz[ing] store-level pricing to identify SKUs that are priced less than RSC [regional supply center] cost, below

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[115] Ace Hardware Corporation, 2021 Annual Report at 61.

[116] Ace Hardware Corporation also acknowledged its use of "Tailored Hotsheets" to "improve gross margin dollars and enhance price image" in its 2022 Franchise Disclosure Document. Ace Hardware Corporation, 2022 Franchise Disclosure Document, *Item 6: Other Fees*.

[117] *Ace Level Pricing*, Epicor, https://help.eaglesoa.com/34/en-n-eagle/Ven_Proceds/Ace/Ace_Telecom/Ace_Lev_Prcg.htm (last visited May 6, 2026).

Ace retail, or are in violation of a MAPP [minimum advertised price policy] retail."[118] In other words, the Cooperative and Epicor direct Ace Member Stores to raise prices, including when those stores are pricing below the Cooperative's lowest suggested "Ace retail" price—also known as Price Level A.

94. Epicor provides multiple tools in its software so that stores that receive notifications of Critical Price Changes can adopt all of them with the click of a button.[119] The Epicor help page describing these functionalities does not similarly describe how a Member Store might pick and choose which Critical Price Changes to implement. The Epicor documentation describing Critical Price Change functionality also does not describe a similar functionality to encourage Member Stores to *lower* prices—indicating that the purpose is to exert upward pricing pressure, not to correct pricing errors, which would normally result in prices that are too high as well as too low.

95. Ace Hardware Corporation acknowledges that it provides Member Stores pricing guidance and encourages them to follow it. In 2013, Ace Hardware Corporation retail pricing strategy manager Andy Voelker spoke at a retailer summit regarding dynamic pricing. He discussed the company's recent investments in pricing software, explaining that Ace Hardware Corporation used the retail sales data it collects to provide "best recommendation[s]" for dynamic price changes to stores, in hopes that those stores would "stay within the guard rails of what we want."[120]

96. In 2025, Brian Wiborg, Ace Hardware Corporation's Senior Vice President of Merchandising, acknowledged Ace Hardware Corporation's central role in setting prices at the Cooperative's Member Stores. Speaking to Ace store owners and operators at Ace's Spring Convention in San Antonio, Wiborg suggested that if new U.S. tariffs raised Member Stores' cost

[118] *Id.*

[119] *Id.*

[120] Andrew Nusca, *The future of retail is dynamic pricing. So why can't we get it right?*, ZDNET (Oct. 2, 2013), https://www.zdnet.com/article/the-future-of-retail-is-dynamic-pricing-so-why-cant-we-get-it-right/.

of acquisition, then Ace Hardware Corporation would coordinate higher prices at Member Stores in order to protect their margins. Industry trade magazine *Hardware Connection* described Wiborg's statement to attendees as follows:

> Wiborg . . . emphasized that Ace's priority is protecting retailer margins. "Just like with the [Section] 301 tariffs in 2018 and 2019, we will protect your margin," he said in San Antonio. Ace buyers are negotiating cost justifications and tariff mitigation plans with vendors. If price increases occur, the company will pass them on to consumers to preserve retailer profitability, according to Wiborg.[121]

According to the *Hardware Connection* article, Wiborg went on to describe a "new system" that would allow Ace Member Stores to receive pricing directions from Ace Hardware Corporation in order to adjust their prices "in real time."[122] In other words, Ace would use the data it already collects and shares with the help of Epicor to transmit collective price increases more rapidly than weekly hotsheets. These real time adjustments would be specifically aimed at ensuring that Member Stores raised prices on consumers. According to Wiborg, in earlier instances of tariff-related price inflation, "the average store left about $100,000 on the table because they couldn't adjust quickly enough."[123] To address this, Ace implemented tools to coordinate price increases in real time across its Member Stores. This ensured that Ace Member Stores did not compete with one another on price by absorbing rising input costs, but instead acted collectively to pass those increased costs onto consumers in the form of higher prices.

97. Ace Hardware Corporation also acknowledges that its price recommendations to Member Stores are tailored to their local markets. Describing the "Pricing-Related Services" provided to Member Stores in its 2021 Annual Report, Ace Hardware Corporation explains that it provides "recommended localized pricing" as part of a package of services designed to improve

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[121] Doug Donaldson, *U.S. Tariffs Pose Challenges for Independent Hardware Retailers; Buying Groups Respond*, Hardware Connection (Mar. 12, 2025), https://thehardwareconnection.com/u-s-tariffs-pose-challenges-for-independent-hardware-retailers-buying-groups-respond/.

[122] *Id.*

[123] *Id.*

Member Stores' margins.[124] Voelker emphasized the importance of localized pricing when speaking at the 2013 retailer summit:

> The area where we're starting to see the value is going from a single national price to zone-based pricing . . . . We've known this for awhile, but we just haven't been able to act on it. . . . We need to be much more aggressive in certain areas without giving it away in the rest of the country.[125]

The sophisticated Price Zone and Level Pricing systems the Ace Cooperative has in place today are the product of the investments Voelker described in the Cooperative's ability "to act on" local pricing power. These investments went beyond general market research and cost-based pricing guidance, and instead involved collecting price and output data from Ace Member Stores in local markets and using that data to facilitate coordinated price increases by Ace Member Stores in local markets.

98. As a result of the Cooperative's investments in its ability to collect, process, and disseminate data, Ace Hardware Corporation's hotsheet pricing recommendations are now consistently "localized" using "Price Zones" assigned to particular Ace Member Stores based upon geographic proximity and other factors. This ensures that Member Stores that may draw from the same customer base can set comparable prices, set prices that maximize profit based on local characteristics, and move prices in tandem. Member Stores then choose to use either the Ace retail ("Level A"), Level 1, or Level 2 price (a "Price Level," or "Level Pricing") within their given Price Zone when adopting the Cooperative's localized price recommendations. The implementation of Level Pricing and choice of a Price Level by a Member Store is, in itself, an agreement with the Cooperative and an Ace Member Store's nearby competitors to implement coordinated pricing in line with the Price Zone recommendations. Moreover, Member Stores that choose the same Price Level while in the same or nearby Price Zones commit to raising prices on

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[124] Ace Hardware Corporation, 2021 Annual Report at 8.

[125] Andrew Nusca, *The future of retail is dynamic pricing. So why can't we get it right?*, ZDNET (Oct. 2, 2013), https://www.zdnet.com/article/the-future-of-retail-is-dynamic-pricing-so-why-cant-we-get-it-right/.

the same items, at the same time, by the same amount. Level Pricing also enables Member Stores to divide customers in other ways (for example, with one store targeting wealthier customers and another store targeting poorer customers) and to coordinate pricing on particular categories of items in light of unique features of the local market (for example, two Member Stores can opt for a coordinated, lower Price Level on plumbing items to account for the proximity of a plumbing supply store that drives down prices for plumbing items in the area, while maintaining coordinated, higher prices on other product categories).

99. Ace Member Stores can readily learn and thereby generally know their local competitor Member Stores' Price Zones and Price Levels. As an initial matter, Ace Price Zones are based in large part upon geography. As shown later in this complaint, Ace Member Stores regularly share a Price Zone with their nearby competitors. An Ace Member Store operator can then estimate nearby competitors' Price Levels (and, if necessary, confirm their Price Zones) by reviewing the publicly available prices of those competitors and comparing them to their own store's prices. Critically, the store may only need to check the price of a single item, or a handful of items, at a competitor Member Store to determine the Price Level used at that store since it can cross-reference items for which the prices were updated on a recent hotsheet. From that check alone, the Member Store will be able to determine with confidence its competitor's pricing across SKUs in that store on a forward-going basis. This process is aided by monthly Mango Reports, which allow Ace Member Stores to confirm that nearby competitors are moving in tandem on any given SKU, instead of deviating from the Cooperative Cartel's recommendations.

100. Furthermore, as of the filing of this complaint, Ace Member Stores' Price Zones and Price Levels are made available by Ace Hardware Corporation at a webpage: www.acehardware.com/location.[126] This webpage, which is hard for consumers to find because it does not appear to be linked on Ace Hardware Corporation's public website, appears to be a device for communicating Price Zones and Price Levels, among other information, to the over 5,000 Ace

[126] This URL is different than the website's store locator, which is https://www.acehardware.com/store-locator.

Member Stores in the United States. The webpage seems to be designed to conceal information from consumers and others outside of the conspiracy. When a user lands on the webpage, it displays a pop-up window that suggests a website error, reading, "Something went wrong." Directly behind that window, information about individual Ace Member Stores is displayed in white text against a white background. That text is unreadable unless highlighted by a cursor. The webpage uses the visitor's location to determine which Member Stores' information it displays. The webpage lists those Ace Member Stores' Price Zones and Price Levels using the Cooperative's jargon in a manner not decipherable to ordinary consumers, but readily understood by Ace store owners and operators. Other information shown for each store includes whether the Member Store uses Epicor, the "Nearest Store Locations" identified by store codes used internally by the Cooperative, and each Member Store's address and latitude and longitude. Shown below is the entry at the above URL for Naperville Ace Hardware in Naperville, Illinois, with highlighting to show the assigned Price Zone ("Z16001") for each numerical department (1-9) in the store.

101. The Ace Member Stores nearest to Naperville Ace Hardware are two Buikema's Ace Hardware locations. Buikema's Ace Hardware stores are Ace Corporate Stores operated by Defendant Ace Retail Group. As shown below, the two Buikema's Ace Hardware stores have the same Price Zone ("Z16001") as Naperville Ace Hardware.

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102. Each of the Price Zones above are followed by either "_A," "_1," or "_2." These reflect Member Stores' chosen Price Levels under the Cooperative Cartel's "Level Pricing" system, with "_A" indicating the lowest (or "Ace retail") recommended price, "_1" indicating higher "Level 1" pricing, and "_2" indicating the highest "Level 2" prices.

103. This webpage provides the information individual Ace Member Store owners need to determine the Price Zones and Price Levels for their local Ace Member Store competitors. But even if the information on this webpage were not up-to-date, or most Member Store operators were unaware of it, the handling of this data suggests that Ace Member Stores' Price Zones and chosen Price Levels are likely readily accessible to Ace Member Store operators through other means—such as the Ace Cooperative's intranet, which it calls ACENET, through other internal Ace Cooperative resources, or through conversations with competitors, including at local Ace retail group meetings for Cooperative Members.

104. Ace Member Stores in the same Price Zone receive the same recommended prices from the Cooperative through tailored hotsheets. These hotsheets are issued on a weekly basis to update prices for particular items at Ace Member Stores. The three Member Stores shown above receive identical guidance on when to raise prices for particular items, and by how much, from Ace Hardware Corporation and Epicor. Even if the Member Stores have different Price Levels selected, their shared Price Zone means they will raise prices in tandem, and likely by comparable amounts.

105. Epicor's software enables Ace Member Stores to adopt prices based upon their assigned Price Zone, and to use Price Levels to pre-commit to *identical* price increases within the same Price Zone. Epicor is familiar with the details of Level Pricing, explaining to Ace Member Stores, "Level Pricing is researched and developed by Ace [Hardware Corporation]'s Category Management team, which is part of Merchandising."[127] In its online help page, Epicor explains how Member Stores receive these pricing levels via hotsheets showing that prices for particular items have updated in Ace Hardware Corporation's regular electronic catalog transmission.[128] Epicor describes how Ace Hardware Corporation provides Ace Member Stores with hotsheets showing "Checklist" prices (upon information and belief, the "Ace retail" price noted above), "Level 1" prices, which are higher than the "most competitive" checklist price, and "Level 2" prices, which Epicor describes as the "least competitive" option.[129] These hotsheets are processed by Epicor software, and stores use Epicor software to update pricing based upon the hotsheets.

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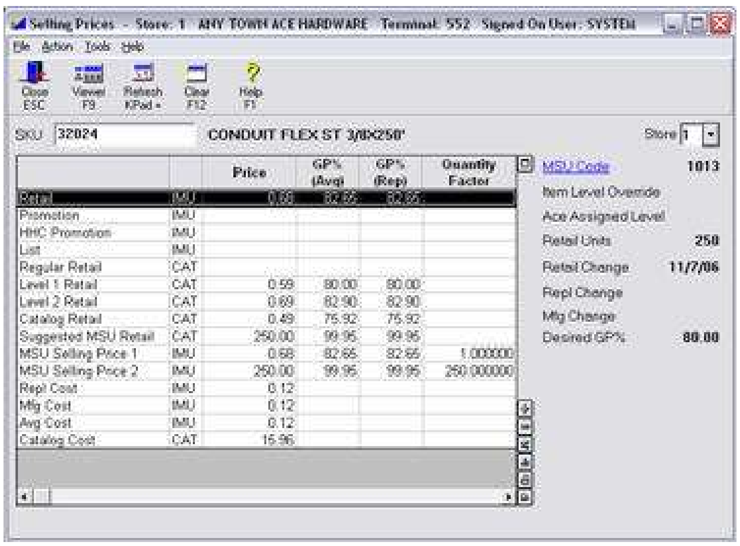
[127] *Ace Level Pricing*, Epicor, https://help.eaglesoa.com/34/en-n-eagle/Ven_Proceds/Ace/Ace_Telecom/Ace_Lev_Prcg.htm (last visited May 6, 2026).

[128] *Id.*

[129] *Id.*

106. In the image below, Epicor shows an exemplar "Any Town Ace Hardware" using Epicor software. The image shows the "Selling Prices" window open for a particular item. The Eagle software displays the "Level 2 Retail," "Level 1 Retail," and "Catalog Retail" (Ace retail) prices for the product. Alongside these prices is a "GP%" column, showing that gross profit falls from 82.90% at Level 2 pricing, to 80% at Level 1 pricing, to 75.92% at the Ace retail price.



107. Epicor makes clear that the Ace Cooperative's level pricing recommendations are designed to allow Ace Member Stores to strategically raise local prices for categories of related products subject to common competitive pressures:

> You can assign more competitive pricing to selected items, based on their price sensitivity, yet still maintain higher margins on other items. For example, if you have a plumbing warehouse nearby, you can assign more competitive pricing (i.e. Checklist pricing) to your plumbing items, but higher prices (i.e. Level 2 pricing) to the rest of your store.[130]

108. A review of Ace Member Store data on the publicly available webpage linked above shows that most Ace Member Stores implement the same Price Level for all departments.

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[130] *Id.*

109. The combination of Price Zones and Level Pricing means that Ace Member Stores in the same local market can and do pre-commit to raising prices at the same time, and in many cases by the same amount, based upon the Cooperative Cartel's directives via its hotsheets. As shown below, Ace Member Stores routinely adopt all or almost all of the recommended prices directed by the Cooperative for their Price Zone and Price Level. The Member Stores' discretion to depart from the Cooperative's recommendations is thus rarely exercised. This outcome is to be expected given the ease with which local competitors can monitor one another's compliance with the Cooperative's pricing recommendations. The fact that adoption of price recommendations for a particular Price Zone and Price Level can be confirmed by checking a handful of online prices for a Member Store, combined with the accessibility of Member Stores' Price Zones and Price Levels on a public webpage, means that Member Stores can monitor whether their competitors remain committed to a particular Price Level, and monitor whether they remain in the same Price Zone. This allows Member Stores to rest easy that their price increases in line with the Cooperative's recommendations will be matched by their local competitors, and also prevents Member Stores from substantially deviating from the Cooperative's recommendations, since they know that doing so may prompt their local competitors to do the same. And even in the limited cases where Member Stores do deviate from the Cooperative's pricing direction for particular products, they do so knowing those deviations are from a shared starting point with their local competitors, and knowing that they will continue to receive shared pricing guidance for those products on a going-forward basis.

110. Ace Member Stores even commit to charging particular Price Levels before their stores open. In a 2019 business loan application presented for approval to the Board of Commissioners for the City of Coffeyville, Kansas, the prospective owner of Olson's Ace Hardware in Coffeyville committed to charging a particular price level at the store before it opened, writing in the application:

> Ace Hardware stores have 3 pricing levels. Retail is the most competitive, then level 1 pricing is slightly higher and level 2 pricing is the highest and generally

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Formatted: Indent: Left: 0.5", Right: 0.5", Line spacing: Exactly 14 pt, No bullets or numbering, Tab stops: Not at 3" used in small markets with little competition. Our Coffeyville location will be at retail pricing for Ace, the most competitive.[131]

111. To see the effect of Price Zones and Price Levels in practice, it helps to consider some concrete examples. Plaintiff Sean Twomey purchased from his local Palos Ace Hardware, which is in Price Zone 16004 and has chosen Price Level 1. Approximately seven miles east is Dejay's Ace Hardware, another Epicor user and Ace Rewards participant. Dejay's is in the same Ace-assigned Price Zone as Palos Ace Hardware and has chosen the same Price Level 1. Approximately 12 miles west of Palos Ace Hardware is Lemont Ace Hardware, which is also in Price Zone 16004, and is also an Epicor user and Ace Rewards participant, but has chosen Price Level A, the lowest level. Lemont Ace Hardware and Palos Ace Hardware are both owned by Dan Harris. An analysis of how these stores price products across standard Ace inventory shows the impact of Ace's Price Levels, and demonstrates that the Palos Ace Hardware store from which Plaintiff Sean Twomey purchased was indeed illegally fixing prices at above competitive levels.

112. The below chart shows the price of products at Palos Ace Hardware, Dejay's Ace Hardware, and Lemont Ace Hardware on April 1, 2026. It shows that Palos Ace Hardware and Dejay's Ace Hardware, the Price Level 1 stores, priced products consistently higher than Lemont Ace Hardware, the Price Level A store. It also shows that the two Price Level 1 stores regularly charged identical prices. Across items ranging from hinges to p-traps to in-shell peanuts, the Price Level 1 stores charged prices that were higher than the Price Level A store—8.7% higher on average for the products listed. Critically, these overcharges are pure profit for Palos Ace and Dejay's Ace, as they have the same cost of acquisition as Lemont Ace through the Ace Cooperative, and Lemont Ace was not likely selling the items at a loss.

[131] City of Coffeyville Commission Meeting Agenda at 74 (Oct. 8, 2019), http://coffeyville.com/ArchiveCenter/ViewFile/Item/2163.

Item	Lemont Ace	Palos Hardware	Dejay's Ace	Dejay's and Palos Premium
Ace 1-1/2 in. D Chrome Plated Brass P Trap	$ 33.99	$ 34.99	$ 34.99	2.9%
Ace 3 pack of 3-1/2 in. L Satin Nickel Residential Door Hinge	$ 13.99	$ 14.99	$ 14.99	7.1%
Ace 57 in. Steel Atlas Pattern Post Hole Digger Fiberglass Handle	$ 46.99	$ 49.99	$ 49.99	6.4%
Ace White 0.5 qt Plastic Bucket	$ 1.59	$ 1.79	$ 1.79	12.6%
Ace In-Shell Peanuts 5 lb	$ 15.99	$ 16.99	$ 16.99	6.3%
Ace 20 ft. L X 4 in. D Silver Aluminum Dryer Vent Duct	$ 28.99	$ 29.99	$ 29.99	3.4%
Ace 1.88 in. W X 50 yd L Silver Metal Repair Tape	$ 11.99	$ 12.99	$ 12.99	8.3%
Ace 3/8 in. Compression X 3/8 in. D Compression 72 in. Braided Stainless Steel Dishwasher Supply Lin	$ 27.99	$ 28.99	$ 28.99	3.6%
Ace 2 in. D Swivel Metal Caster 125 lb 2 pk	$ 7.99	$ 8.99	$ 8.99	12.5%
Ace Felt Self Adhesive Blanket Green Square 6 in. W X 18 in. L 1 pk	$ 4.99	$ 5.99	$ 5.99	20.0%
Ace Plastic Self Leveling Table Pad Set Black Round 1 in. W 17 pk	$ 13.99	$ 14.99	$ 14.99	7.1%
Ace DVD Player Converter RF Modulator 1 pk	$ 23.99	$ 24.99	$ 24.99	4.2%
Ace .75 in. L Brass-Plated Steel Flush Mortise Finger Pull	$ 6.99	$ 7.99	$ 7.99	14.3%
Ace 0.73 in. L Zinc Gate Hook and Eye 1 pk	$ 2.59	$ 2.79	$ 2.79	7.7%
Ace 1 in. L Tan Plastic Door Guide 2 pc	$ 4.59	$ 4.99	$ 4.99	8.7%
Ace 2 in. H X 1.5 in. W X 2 in. D Zinc Inside L Corner Brace	$ 1.39	$ 1.59	$ 1.59	14.4%
Ace Small Zinc-Plated Silver Steel 1.375 in. L Square Bend Screw Hook 10 lb 10 pk	$ 2.59	$ 2.79	$ 2.79	7.7%

113. Plaintiff Sean Twomey also purchased from Duke's Ace Hardware in Palos Hills, Illinois. Duke's Ace is a Price Level A store in Price Zone 16001 and competes for customers with Buikema's Ace Hardware in Romeoville, Illinois. Buikema's Ace, an Ace Corporate Store owned by Defendant Ace Retail Group, is also in Price Zone 16001, and has also chosen Price Level A. As shown in the chart below, in a selection of store prices from April 2, 2026, Duke's Ace and Buikema's Ace have used their identical chosen Price Zone and Price Level to align their pricing across the range of their inventory.

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Item	Duke's Ace	Buikema's Ace
Ace SmartFLO 3/4 in. D X 100 ft. L Contractor Grade Garden Hose	$ 54.99	$ 54.99
Ace 3/8 in. Compression X 3/8 in. D Compression 72 in. Braided Stainless Steel Dishwasher Supply Lin	$ 27.99	$ 27.99
Ace 1/2 in. D X 50 ft. L White Twisted Nylon Rope	$ 36.99	$ 36.99
Ace Felt Self Adhesive Blanket Green Square 6 in. W X 18 in. L 1 pk	$ 6.59	$ 6.59
Ace Plastic Self Leveling Table Pad Set Black Round 1 in. W 17 pk	$ 15.99	$ 15.99
Ace DVD Player Converter RF Modulator 1 pk	$ 23.99	$ 23.99
Ace Decorative Round Furniture Knob 1/2 in. D 1 in. Brass 2 pk	$ 3.99	$ 3.99
Ace .75 in. L Brass-Plated Steel Flush Mortise Finger Pull	$ 6.99	$ 6.99
Ace 0.1875 in. Chrome Brass Pop-Up Rod	$ 7.59	$ 7.59
Ace 0.3125 in. L Black Steel Lag Screw 6 pk	$ 3.99	$ 3.99
Ace 1 in. D Chrome Silver Stainless Steel Replacement Strainer Basket	$ 3.59	$ 3.59
Ace 1 in. L Tan Plastic Door Guide 2 pc	$ 5.59	$ 5.59
Ace Best 2-1/2 in. Angle Trim Paint Brush	$ 13.99	$ 13.99
Ace 5-1/2 in. L X 4-1/2 in. W 60 Grit Aluminum Oxide 1/4 Sheet Sandpaper 25 pk	$ 7.99	$ 7.99
Ace 45 in. Aluminum Scoop General Purpose Shovel Wood Handle	$ 43.99	$ 43.99

114. These charts also demonstrate how stores in adjacent or nearby Price Zones, but using the same Price Level, can expect to have comparable pricing on many items. The shaded items in the chart above had the same prices as those same items at Lemont Ace Hardware the day prior, some of which are shown in the previous chart. Lemont Ace Hardware is another Price Level A store just 8 miles from this Buikema's Ace location, but in a different Price Zone. Furthermore, the below chart shows how Price Zones facilitate meaningful price coordination. The Duke's Ace and Buikema's Ace Member Stores at Price Level A have *higher* prices on multiple items than the Palos Ace and Dejay's Ace Member Stores, which have chosen Price Level 1 in a different Price Zone. Prices for Ace self-adhesive felt, self-leveling table pads, and tan plastic door guides were 10%, 6.6%, and 12% higher at Duke's Ace and Buikema's Ace than at Palos Ace and Dejay's Ace (which themselves charged 20%, 7%, and 9% higher than Lemont Ace for these products). Once again, these coordinated overcharges—of at least 30% or more on certain items—reflect pure profit for the Ace Member Stores.

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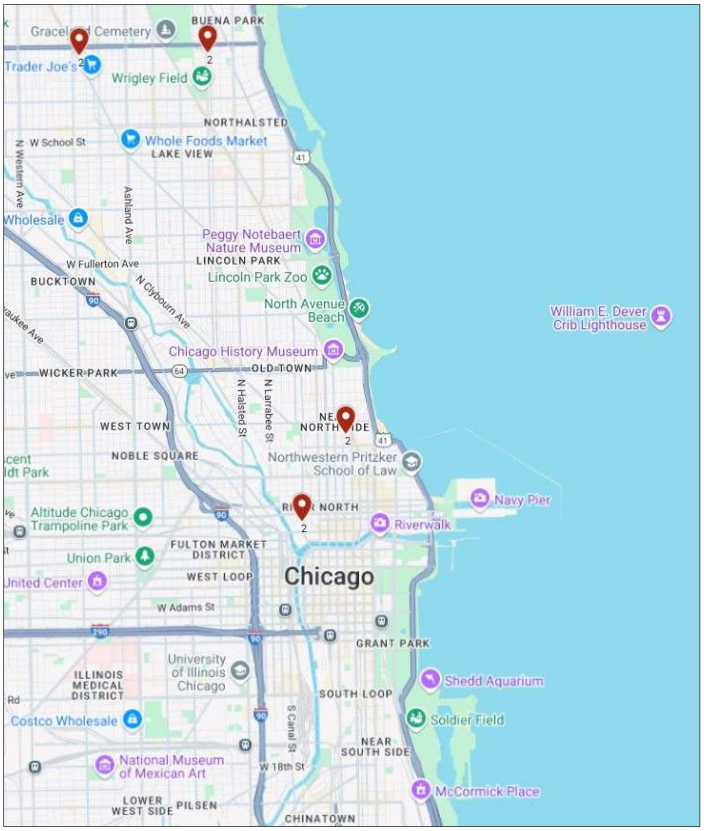
115. The impact of Price Zones and Level Pricing together is also apparent when considering exemplar local markets. For example, a resident living near the corner of Wrightwood Ave and Hampden Court in Chicago's Lincoln Park neighborhood has four Ace Member Stores within a 15-minute drive: two Lakeview Ace Hardware locations to the north, and two JC Licht Ace Hardware locations in the River North neighborhood and on the Near Northside. Yet *all four* of these stores, shown with red flags on the following map, have been assigned the same Ace Price Zone (16006) and have chosen the highest Price Level 2. This means each of these stores can be confident that their nearby competitor will raise prices on the same products, by the same amount, at the same time, whenever the Cooperative Cartel directs them to do so. The impact of these coordinated price increases is substantial. Ace Member Stores comprise an estimated 66% (4 of 6) of the convenience hardware stores within this 15-minute driving radius.



116. Online data confirms that these stores in fact charge higher prices on their products consistent with their Ace-assigned Price Level 2. As of March 23, 2026, each of the above four stores charged the same price, $34.99, for Ace private label 1-1/2 in. D Chrome Plated Brass P Trap. Meanwhile, the Westlake Ace Hardware location at 5423 W Devon Avenue in Chicago, which is less than 15 miles from each of the above stores, but implements Price Level 1, charged $32.99 for the same item. Finally, Elston Ace Hardware at 5422 S Lake Park Avenue in Chicago, which is less than 20 miles from the above stores and implements Price Level A, the lowest tier, charged $31.99 for this item. The Price Level 2 stores thus charged 10% more for this P Trap than lower-priced stores in Chicago.

117. As another example, as of March 23, 2026, all four of the above Price Level 2 stores charged $14.99 for a 3 pack of 3-1/2 in. L Satin Nickel Residential Door Hinges. The Price Level 1 and Price Level A stores mentioned above, meanwhile, charged just $9.99 the same product. The Price Level 2 stores were thus 50% more expensive.

118. A number of the foregoing pricing examples also show how Member Stores in different Ace Price Zones receive similar pricing recommendations covering overlapping products. Stores in Price Zones 16004 and 16006, for instance, received comparable guidance about the pricing of the same p-traps and door hinges. Stores' knowledge of other stores' different Price Zones allows Ace Member Stores to raise prices with the confidence that their local competitors will likely do the same. Moreover, even if Ace Member Stores do not know or do not check that local stores are in the same Price Zone and/or use the same Price Level, the Cooperative's conduct still facilitates Member Stores setting supracompetitive prices. Member Stores know that their fellow Member Stores are receiving price recommendations from the Cooperative Cartel, and that nearby Members Stores are likely receiving the same or similar price recommendations on overlapping or identical groups of products. Member Stores thus know that they can raise prices in line with the Cooperative's recommendations with the confidence that their local competitors will generally do the same. Ace Member Stores also know that if other Member Stores were to consider deviating from the Cooperative's price recommendations by too much (including by pricing below the Ace retail price), those Member Stores would be directed through a "Critical Price Alert" to increase their prices consistent with the Cooperative's recommendations. This, too, enables Ace Member Stores to raise prices with reduced risk of local competition.

119. Ace Hardware Corporation provides financial incentives beyond higher margins to encourage stores to raise prices in line with the Cooperative's recommendations. For instance, Member Stores can achieve valuable Ace store statuses based on executing price increases. Members may be designated "Pinnacle Performance Retail[ers]" by Ace Hardware Corporation if they achieve Earnings Before Interest and Taxes (EBIT) as a percentage of net sales of 8%, 18%

Pre-Tax Return on Equity (ROE), and 80% Overall Customer Satisfaction.[132] Two of these three metrics—EBIT and ROE—are directly tied to the profitability of the stores. Since each Member Store purchases the vast majority of its goods from Ace Hardware Corporation, and thus has essentially the same cost of goods sold as all other Ace Cooperative Members, directing the stores to maximize EBIT and ROE is strongly encouraging the Member Stores to raise prices. Member Stores that achieve Pinnacle status have the ability to obtain special financing from Ace Hardware Corporation, including $200,000 in the form of dollar-for-dollar equity match loans,[133] as well as public recognition and invitations to exclusive networking events such as an "annual celebration"—including the celebration held in January 2025 in Las Vegas.[134] Unsurprisingly, Ace Hardware Corporation reported that in 2020, stores with Pinnacle status saw their gross profits rise by 27.4% from the prior year, compared with only 22.3% for regular Ace-branded Member Stores.[135] The Cooperative also uses its Pinnacle status to ensure that Members participate in Ace Rewards and continue to share their fine-grained customer data. Member Stores can achieve Pinnacle status, or the lower Platinum status, by having a 65% or 50% Ace Rewards card scan rate, respectively, in addition to a number of other factors.[136]

120. Ace Member Stores have agreed to share competitively sensitive data, receive coordinated price communications, and implement coordinated price increases in the interest of

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[132] *The View is Worth the Climb: Higher Ground – Ace Hardware's Long-Term Retail Growth Strategy*, Ace Hardware Corporation p. 8 (2021), https://online.flippingbook.com/view/665286395 (last visited May 6, 2026).

[133] Tom Kaiser, *Ace Actively Fueling Store Growth*, Franchise Times (Oct. 13, 2020), https://www.franchisetimes.com/franchise_news/ace-actively-fueling-store-growth/article_d8b9d502-49c9-5f98-8746-2d8f72a9dd12.html.

[134] Lindsey Thompson, *Wholesaler Central: Ace Hardware Recognizes Pinnacle and Platinum Retailers*, Hardware Retailing (Dec. 2, 2024), https://hardwareretailing.com/wholesaler-central-ace-hardware-recognizes-pinnacle-and-platinum-retailers/.

[135] *The View is Worth the Climb: Higher Ground – Ace Hardware's Long-Term Retail Growth Strategy*, Ace Hardware Corporation p. 6 (2021), https://online.flippingbook.com/view/665286395 (last visited May 6, 2026).

[136] *Id.* at 9.

reaping supracompetitive profits. When Ace Hardware Corporation analyzes competitively sensitive price data and facilitates collusive price increases by its Members, it is acting at the command of its Member-owners. Ace Hardware Corporation's conduct is thus attributable to, and in direct service of, its Members—who benefit from coordinated local pricing in the form of supracompetitive prices and profits. Ace Member Stores also separately agree with the Ace Cooperative, Epicor, and one another to share their competitively sensitive data, to receive the competitively sensitive data of their competitors, and to implement coordinated price increases in their local markets. These schemes include not only Independent Ace Stores with Ace branding and Ace Corporate Stores, but also Individually Branded Ace stores that do not identify themselves to consumers as Ace Member Stores.

121. It would be economically irrational for a retailer to share its confidential pricing information with competitors—as that would allow competitors to steal its customers by undercutting its prices—unless all those competing retailers acted collectively to ensure that all share their proprietary information with each other so as to enable price fixing.

III. Market Allocation by Territory

122. The Ace Cooperative's rapid Member Store expansion in recent years has strengthened the Cooperative. Adding Member Stores increases the money the Cooperative can spend on national advertising and increases its purchasing power, which in turn increases the amount of money it can distribute back to its Members. But there is a tension at the heart of the Cooperative's expansionary strategy. While Ace Member Stores *generally* benefit from the addition of new stores, individual Members in a given local market do not benefit from increased local competition. Existing Ace Member Stores thus have a strong incentive to use their control over the Cooperative to restrict local competitive entry.

123. But independent businesses are not permitted to use their cooperative—an organization of independent, competitor stores—to restrict local competition. As explained below, Ace Hardware Corporation and its Members have done just that, implementing a formal policy of territorial restraints that allocate markets among Member Stores, to prevent new stores from

opening in local markets where they will compete with existing Member Stores, and to allow existing Member Stores to charge higher prices without the threat of competition. These territorial restrictions fortify the price-fixing conspiracy by reducing the temptation of Member Stores to cheat on pricing agreements, as discounts are less likely to attract customers who live far away. Moreover, territorial restrictions enable Member Stores to save costs by providing lower-quality service, as customers disinclined to travel long distances to competitors will put up with poor service.

A. The Ace Cooperative's Use of Territorial Restrictions on Entry to Allocate Markets

124. Ace Hardware Corporation strictly controls the creation of new Ace Member Stores. Prospective Members apply to open a store at a particular location (e.g., a street address), Ace Hardware Corporation grants individual store memberships for a "specific location" only, and store owners cannot relocate their Member Stores without the Corporation's "specific approval."[137] Existing Ace Member Store owners must also apply to the Corporation to open another store and gain approval for that new Member Store location.[138] As detailed below, the Cooperative Cartel uses this control over Member Store locations to prevent local store competition, causing Member Stores to be geographically dispersed rather than clustered in the busiest areas of town.

125. Approval of each store location is not necessary to achieve any procompetitive cooperative purpose.

126. As further detailed below, this market allocation scheme is evidenced by a range of statements from Ace Hardware Corporation, Ace Member Store owners, and Ace employees showing that the Corporation actively imposes territorial restrictions and allocates markets among its Members. Statistical evidence of Ace Member Store clustering, and the locations of new Ace

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[137] Ace Hardware Corporation, 2022 Franchise Disclosure Document, *Item 12: Territory*.

[138] *Id.*

Member Stores, further confirms that the Ace Cooperative Cartel has engaged in market allocation in recent years.

1. Evidence of Market Allocation in Statements by Ace

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127. Ace Hardware Corporation executives are forthright about their willingness to restrict entry by prospective member stores at locations that would increase competition among Ace Member Store owners. In a January 2026 article in Entrepreneur magazine, Andy Enright, Ace Hardware Corporation Senior Vice President of Retail Strategy and Operation, explained:

> Despite being 102 years old, we still see a major runway for growth. Where can we open a profitable store that wouldn't cannibalize an existing store? We've come light-years in answering that question. It's helping us be more confident in placing bets.[139]

128. Mr. Enright speaks as if he is directing the operations of a consolidated corporate chain opening store locations. But Mr. Enright directs the operations of a *retail cooperative*, an entity owned by independent stores that compete against one another and are not permitted to use their cooperative to allocate retail markets among themselves. Yet that sort of illegal market allocation—where competing retail stores cooperate with one another to prevent new stores from entering their territorial markets—is precisely what Mr. Enright describes here.

129. Ace Hardware Corporation's disclosure documents acknowledge this practice as well, noting that the Cooperative reserves the right to decide whether a prospective member store will be admitted based on its assessment of "competitive" information: "We may perform market studies using available competitive and demographic information, prior to our decision whether or not to approve a membership application."[140] Elsewhere, the Cooperative more explicitly acknowledges that it uses its market research to limit store entry to particular geographic locations: "Our general policy is to grant as many memberships in a given market area as we deem necessary

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[139] Stephanie Schomer, *'We're Faster Than Amazon': How Ace Hardware Is Beating Big Tech While Selling Local*, Entrepreneur (Jan. 13, 2026), https://www.entrepreneur.com/franchise-500/were-faster-than-amazon-how-ace-hardware-is-beating-big-tech-while-selling-local.

[140] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Item 11: Franchisor's Assistance, Advertising, Computer System, and Training* & *Item 12: Territory*.

in order for the area to be adequately served by our program."[141] Ace Hardware Corporation also acknowledges in its 2021 Annual Report that it conducts "market and consumer research" to "assess the trade area of existing stores" as well as "*the potential* of the trade area."[142] All of this indicates that the Ace Cooperative restricts entry based upon local competition: if "adequately served" just meant what a competitive market would allow, then there would be no reason for the Cooperative to restrict entry.

130. Private correspondence between Ace Hardware Corporation employees and Ace Member Stores confirms Ace's market allocation practices. In April 2026, an owner of a Northern California Ace Member Store reached out to Ace Hardware Corporation to express interest in opening a store near Santa Maria, California, or Lompoc, California. In response, Matthew Eiser, Ace Hardware Corporation's Multi-Store Development Manager for the West Region wrote, "I would have to run the market work on all 4 sites to determine whether they are clear markets that don't conflict with other existing Ace stores[.]" In other words, the Cooperative would only permit a new store to open near Santa Maria or Lompoc if Ace determined that those proposed store sites were not the exclusive territory of an existing Ace Member Store. Mr. Eiser's email is pictured below.

From: "Eiser, Matthew" <meise1@acehardware.com>
Date: April 17, 2026 at 12:40:37 PM PDT
To: Jerry King <jking@fortunaace.com>
Cc: "Robinson, Toby" <trobin@acehardware.com>
Subject: RE: New Stores

Jerry-

Good chatting with you and hoping for a speedy recovery on your pup! As we discussed I was able to find 4 available sites in the Santa Maria market with 2 being former Rite Aid spaces. Still working on getting you some intel on Lompoc sites. A couple things I wanted to reiterate:

- I would have to run the market work on all 4 sites to determine whether they are clear markets that don't conflict with other existing Ace stores, but wanted to send these to you to give you an idea of whats available in the market as a starting point.

- In addition to determining whether these are clear of conflict, any sites in Santa Maria would have to be taken to the next closest, qualified local Ace retailer first. If they pass on the opportunity, then we can pursue the opportunity with you.

131. Ace Hardware Corporation employees later explained to these prospective store owners that the Ace Cooperative uses a market analysis tool called Sitewise to help determine whether a new location would compete with an existing Ace Member Store. This is the intended

[141] Ace Hardware Corporation, Franchise Disclosure Document, *Item 12: Territory*.

[142] Ace Hardware Corporation, 2021 Annual Report at 8 (emphasis added).

use of Sitewise, which promotes its product as a sophisticated analytics tool that allows users to "balance[ ] net new sales and cannibalization" and "maximize store deployments while protecting existing locations."[143] The Cooperative uses Sitewise, in conjunction with the immense amount of data it collects from Member Stores, in order to allocate retail markets. When Ace determines via Sitewise that a prospective Ace store location would compete with existing Ace stores, it bars the prospective store from opening at that location. This is simply a 21st-century version of the exclusive territories condemned in *Topco*.

2. Evidence of Market Allocation in Statements by Ace Member Store Operators and Ace Hardware Corporation Employees

132. Ace's market allocation practices have also been confirmed by Ace Member Store operators and employees discussing the Cooperative's location policies on a popular internet forum.

Deleted: While the above statements acknowledge that Ace Hardware Corporation limits entry of new stores based upon likely competition in a local market, they do not provide much detail about how the Cooperative makes its decisions. Some of these details were recently outlined

133. The Ace Hardware Reddit forum (reddit.com/r/acehardware) is a discussion board with over 1,300 members—and far more posters and commenters—who discuss topics that include owning, operating, and working at Ace Member Stores. In 2024, a Reddit user asked, "How far apart must Ace Hardware stores be?"[144] The responses from a mix of Ace Member Store operators and Ace Member Store employees acknowledged that Ace Hardware Corporation uses an assessment of likely competition between applicants for membership and existing Members to decide whether to admit a new Member at a particular location:

- A commenter who identifies himself in other posts as a current territory manager for Ace Hardware Corporation's Emery Jensen Distribution network, which serves non-Ace stores, wrote, "It has to do with your ace rewards bubble, you can't be pulling more than 10%? Of another stores customers [sic]. Traffic flow also has to

[143] Sitewise, *FAQ*, https://www.sitewise.com/who-we-are/faq/ (last visited Aug. 31, 2026).

[144] Forum comment posted by Percy Veerance (u/percyveerance), Reddit, *How far apart must Ace Hardware stores be?* (2024), https://www.reddit.com/r/acehardware/comments/1c7p3zr/how_far_apart_must_ace_hardware_stores_be/.

do with it. There's 2 different stores less than a mile apart but it takes 15 minutes to get between them."[145] The "bubble" is an apparent reference to the radius from which stores draw customers, as reflected in their Ace Rewards data.

- An Ace Member Store operator and/or owner in the Jacksonville, Florida, area wrote, "It has to do with how much business the new location cannibalizes from stores nearby. If that number is less than 15%, the new location has a high chance of approval."[146]
- Another commenter whose post history indicates he is also an Ace Member Store operator and/or owner in the Jacksonville, Florida, area wrote that Ace has "a formula" to make store location decisions that it "developed through a great deal of research that takes into account many factors, but the most important factor is the number of available customers."[147]
- Finally, another commenter whose post history shows he is a longtime employee of an Ace Member Store in Florida suggested that the Ace Cooperative's location restrictions had evolved from a prior practice, when the Cooperative effectively awarded exclusive territories based on a mileage radius: "When my store opened it was '10 miles as the bird flys [sic]' for my area. An exception was made as there is an ace less than 1 mile from mine but is separated by a river and bridges."[148]

134. Although the details vary slightly between their accounts, each of these commenters acknowledges that Ace Hardware Corporation imposes territorial restraints on the entry of new stores in order to limit competition for consumers in local markets. Indeed, these individuals confirm that the Ace Cooperative's territorial limits are imposed *based upon* the degree of likely competition between a prospective store and an existing Ace Member Store for consumers who

[145] *Id.*

[146] *Id.*

[147] *Id.*

[148] *Id.*

reside in a particular area. This is because the closer these Member Stores are to one another, the more likely they will compete for customers by offering lower prices, offering better service, or keeping more items in stock.

3. Statistical Evidence of Market Allocation

135. Statistical evidence further confirms the Ace Cooperative's market allocation practices. In a competitive market absent territorial restraints, Ace Member Stores would be expected to cluster together. The reason is that independent store owners seeking to maximize their individual profits would place stores in the locations most likely to attract consumers—which, in the case of Ace Member Stores, means abutting residential neighborhoods. Zoning limits, the location of shopping areas such as shopping centers, the placement of streets, and other factors will all tend to push Ace Member Stores into the same geographic areas. As discussed below, comparable stores in adjacent hardware markets—such as Lowe's and Home Depot—exhibit exactly this clustering pattern. However, new Ace Member Stores have exhibited the opposite pattern. In recent years, Ace Member Stores have opened up *farther* from existing Ace Member Stores than they have historically, and Ace Member Stores as a whole have become *less clustered*. This spatial pattern is evidence of collusion. It is individually irrational to locate far away from a competitor unless the stores agree to divide markets by territory, enabling each store to capture a hinterland of customers who are willing to walk or drive only to stores near their homes.

136. Ripley's H analysis is a spatial statistics method that measures degree of clustering compared to a random distribution. Ripley's H shows whether the objects being measured (in this case, stores) are grouped together more or less than one would expect if the objects were scattered at random. When measured in successive time periods, Ripley's H values show whether the locations of those objects are becoming more clustered or more dispersed over time.

137. In the graph below, higher values on the y-axis reflect a greater degree of clustering. These measures of clustering are displayed over an x-axis to show how clustering values change at various distances from the stores (ranging from zero to 20 miles in the graph below). One could imagine, for instance, that a cartel allocating markets might impose a rule that limits entry by

members within five miles of another store. This would likely produce a graph that shows increased clustering at a five-mile radius. As shown in the graph, Ace Member Stores became substantially *less* clustered between 2016 (red) and 2022 (blue) and 2026 (purple), and did so across all radii from zero to 20 miles. This measure of Ace Member Stores nationwide shows that clustering in local markets decreased on average between 2016 and 2022, and again between 2022 and 2026. This pattern reflects the fact that, as the Ace Cooperative added stores, it executed on its market allocation scheme in order to keep those Member Stores more dispersed than existing Ace Member Stores were—and that this policy was not limited to only preventing stores from being very close together.

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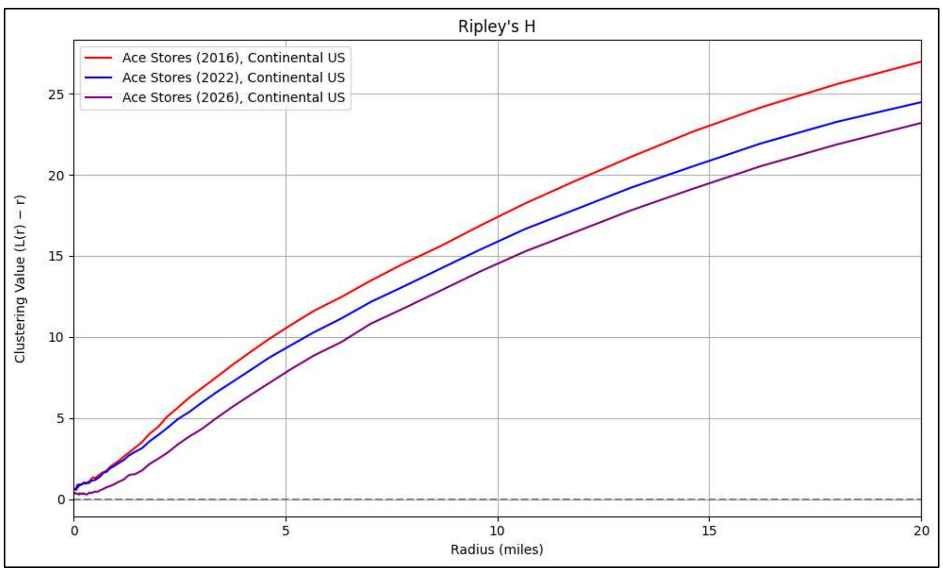

138. It is difficult to grasp the anomalous nature of Ace Member Store clustering without a comparison that shows the sort of clustering that would be expected in a competitive market. As one instructive comparison, the following graph charts the degree of clustering observed among Home Depot and Lowe's stores, the leading "large-format" hardware store chains. Competitive pressures cause Home Depot and Lowe's stores to be highly clustered. The graph below shows the average degree of clustering in local markets nationwide by these competitors compared to the

degree of clustering by Ace Member Stores in 2016, 2022, and 2026.[149] As the graph demonstrates, Ace Member Stores are consistently less clustered than Home Depot and Lowe's stores.

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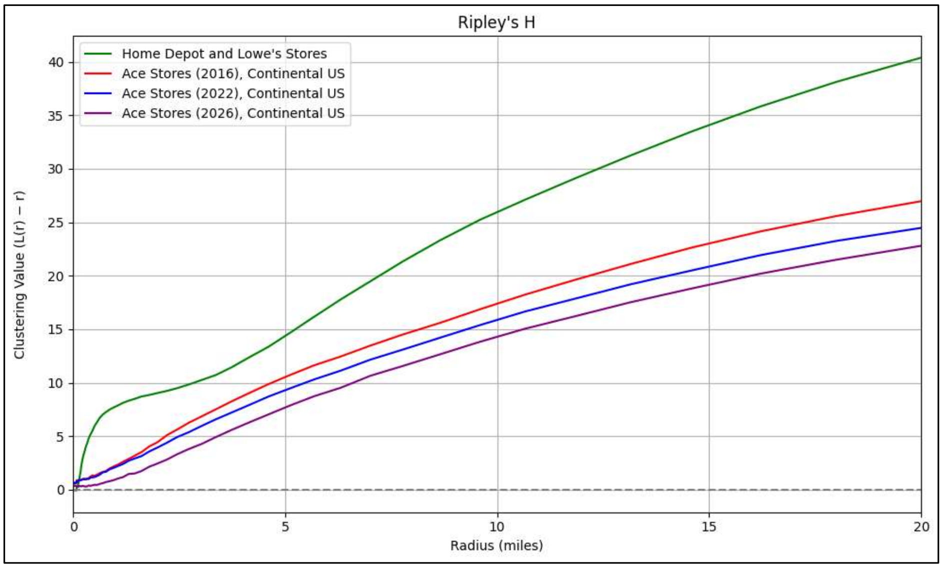

139. It is reasonable to expect that as the number of stores increases, clustering will increase in a competitive market and clustering will stay the same or decline in a cartelized market. The data show that clustering has declined—which contradicts the competitive prediction and is consistent with the cartel prediction. The Ace Cooperative rationally added stores but, to prevent the additional stores from competing against incumbent stores, the Ace Cooperative also rationally—and anticompetitively—spaced stores out.

140. Finally, Ripley's H analysis also shows that the stores from which Plaintiff Sean Twomey purchased, as well as Whitmore Ace Hardware stores owned by Defendant Whitmore Investments benefitted from the Ace Cooperative Cartel's market allocation practices. These stores are in the Chicago-Naperville-Elgin, IL-IN-WI Metropolitan Statistical Area (the

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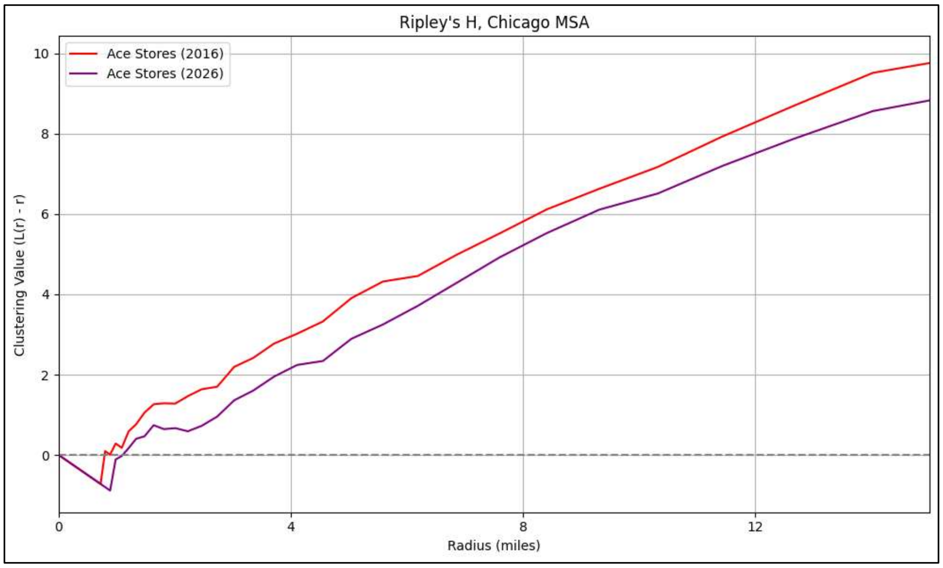
[149] The clustering of Home Depot and Lowe's stores is based upon available datasets of their store locations in 2021 and 2024, respectively.

"Chicago MSA"). As shown on the graph below, between 2016 and 2026, Ace Member Stores in the Chicago MSA became substantially *less* clustered—indicating an intentional effort to disperse stores. During this period the number of Ace Member Stores in the Chicago MSA increased.



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141. As another example, the below images show how Ace Member Store locations in the New York City area, including Costello's Ace Hardware stores owned by Defendant

Bellmore Home Center, became substantially more dispersed between 2016 (left image) and 2026 (right image).

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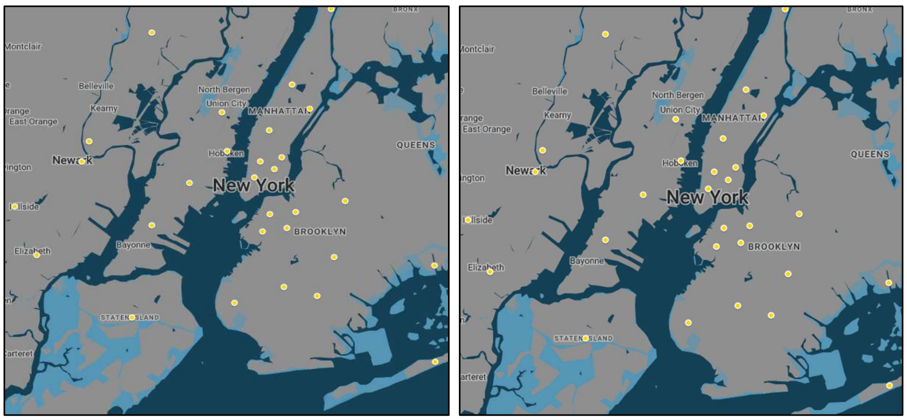

142. Ripley's H confirms the increased dispersion of Ace Member Stores in the New York City area that is visually apparent above. The graph below shows that, just like the Chicago MSA, Ace Member Stores in and around New York City became significantly less clustered between 2016 and 2026 when measured by Ripley's H.

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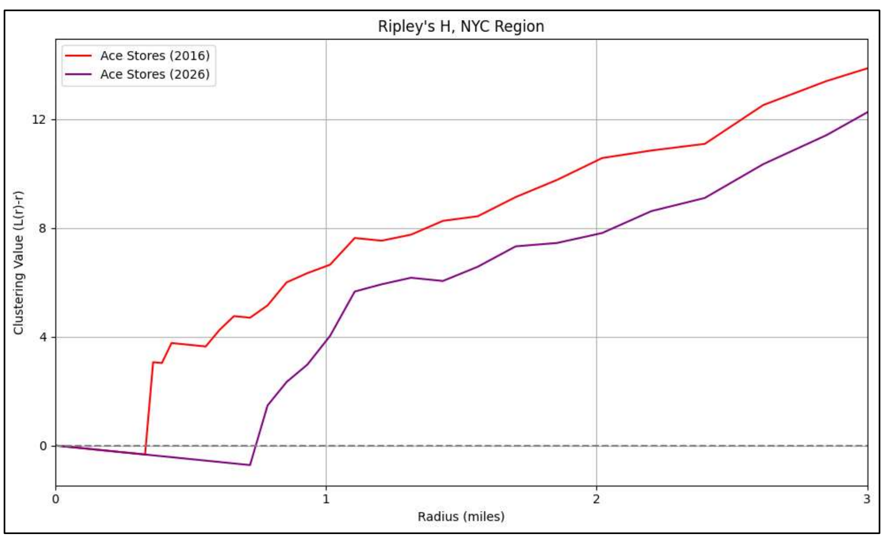

143. Another way to measure Ace Member Store clustering is to look at "nearest neighbor" values, which show the distance between any given store and the closest store in the relevant category. If the Ace Cooperative were allocating markets to prevent local price competition, one would also expect that, among new Member Stores opened, those closer to existing Ace Member Stores would be more often owned by an existing Ace Member Store owner. Ace Member Stores with the same owner need not compete on price; their shared owner can coordinate prices across stores. Ace Member Store location data confirm that, between 2016 and 2022, new stores whose owners had no stores in 2016 were 20% farther from their nearest neighbor than new stores whose owners had at least one store in 2016.[150] As explained in the next section, the Ace Cooperative has implemented policies that limit competition in precisely this way by ensuring that it is existing Ace Member Store owners who acquire and open up new Ace Member Stores in their local markets.

B. The Ace Cooperative's Use of Preferential Entry for Local Owners to Allocate Markets

144. The Ace Cooperative does not only restrict local competition by reducing the entry of new Member Stores near existing Member Stores. The Cooperative also has policies that prevent owners of existing Member Stores from selling to new prospective Cooperative members or to businesses outside the Cooperative, requiring that owners of Member Stores sell to other existing Member Store owners instead. Moreover, the Cooperative has policies that give preference to incumbent Ace Member Store owners opening additional locations in the markets they serve rather than inviting or permitting newcomers to open Ace Member Stores in those markets. These policies jointly encourage Ace Member Stores to consolidate into chains owned by a single entity. They thus accomplish the same end as limiting local entry because an owner of

[150] Because Ace Member Store location data is not public and not all years are available, nearest neighbor calculations for Member Stores opened and closed during the period from 2016 to 2022 calculate the nearest neighbor distance based on the set of stores open in 2022.

multiple co-owned Member Stores can direct store managers to coordinate, rather than compete, on price.[151]

145. Ace Hardware Corporation requires that every owner who wishes to open a new Ace Member Store sign a "Right of First Refusal Agreement."[152] This Agreement requires that the owner provide "notice to Ace of Retailer's [that is, the owner's] intent to sell or otherwise transfer" either the new store or *any other Member Store* owned or controlled by that owner, and to give Ace Hardware Corporation "the right of first refusal to purchase" the Member Store.[153] Ace Hardware Corporation purports to release stores from the obligations under this agreement if the alternative store purchaser (1) "applies to become a member of Ace"—an application the Cooperative can deny at its discretion; (2) commits to operating the purchased store or stores as "Ace-branded retail hardware store(s)" immediately and "for the foreseeable future"; and (3) executes the same Right of First Refusal Agreement with Ace Hardware Corporation, not just for the purchased stores but for "any other retail hardware store(s)" that would be "under common control" with the purchased stores—and does so "in a form satisfactory to Ace in its sole discretion."[154] The Ace Hardware Corporation further retains the right to assign its right of first refusal to any other individuals or entities in "its sole discretion," enabling Ace Hardware

[151] This does not mean the Cooperative is unharmed. The Ace Cooperative benefits when individual Ace Member Stores compete, as lower prices and competitive improvements benefit the image of the Ace brand overall.

[152] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Right of First Refusal Agreement* ("Retailer desires to open an Ace-branded retail hardware store at the location listed below ('New Store') pursuant to (i) an Ace Hardware Membership Agreement (Nonbranded) ('Membership Agreement') and (ii) an Ace Brand Agreement ('Brand Agreement'), each of the foregoing executed respectively by and between Ace and Retailer with respect to the New Store. Ace is willing to grant to Retailer the right to operate the New Store as an Ace member subject to Retailer granting to Ace the right of first refusal stated herein.").

[153] *Id.*

[154] *Id.*

Corporation to choose an existing Ace Cooperative Member to take over Member Stores that might be sold to new Members or a competitor.[155]

146. This Right of First Refusal Agreement serves a few distinct functions for the Ace Cooperative. First, it enables the Cooperative to direct the sale of existing Ace Member Stores to Ace Hardware Corporation or other Cooperative Members, promoting ownership of Ace Member Stores as multi-store chains and preventing the entry of new Members who might compete on price. Second, it imposes the right of first refusal on long-established Ace Member Stores by requiring Members who wish to open a new store to agree to this right of refusal for all of their existing stores. Finally, it ensures that the Ace Cooperative maintains market power in local markets by preventing individual Ace Member Stores and multi-store chains from being sold to owners who would otherwise join a competitor cooperative such as Do it Best.

147. In addition to enforcing its Right of First Refusal, Ace Hardware Corporation has developed and maintained lending programs to preference existing owners of Member Stores developing and owning multiple stores instead of allowing entry of new independent Members. Since as early as 2011, and continuing through the present, Ace Hardware Corporation has entered into "Store Development Agreement[s]" with existing Member Store owners that provide these owners with capital in exchange for the owners committing to develop additional Ace Member Stores.[156] Given the local nature of Ace Member Stores, and the Ace Hardware Corporation's absolute control over Member Store locations, Ace Hardware Corporation knows that store owners entering into Store Development Agreements are most likely to develop additional stores within their local areas and local markets, and can require them to do so, further preferencing co-ownership in local markets.

[155] *Id.*

[156] Ace Hardware Corporation, 2011 Franchise Disclosure Document, *Store Development Agreement*; Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Store Development Agreement*.

148. The Cooperative's preference for owners to have multiple stores, and the effect of this policy, is apparent from an examination of smaller states and cities. As discussed earlier, half of the Ace Member Stores in Vermont are now owned by a single multi-store chain that has been steadily acquiring Ace Member Stores. As another example, Rochester, Minnesota, has three Burggraf's Ace Hardware locations and no other Ace Member Stores (or other convenience hardware stores). Beloit, Wisconsin, similarly has two Harris Ace Hardware stores and no competing convenience hardware stores.

149. Ace Member Store employees and owners have acknowledged that the Corporation attempts to centralize local markets under common ownership by preferring sale of Ace Member Stores to existing local Member Store owners—to the exclusion of ownership by a non-Member. In 2024, a Reddit poster on the r/AceHardware forum asked if anyone knew whether an Ace Member Store in Westerly, Rhode Island, was "being sold to another" Ace Cooperative Member.[157] In response, the previously-quoted longtime Ace employee and current Emery Jensen Distribution territory manager explained, "Rarely does an Ace store get sold to someone outside the Ace family."[158] This was confirmed by Matthew Mazzone, an Ace Hardware Corporation Director and owner of the Mazzone Ace Hardware stores in Brooklyn, New York. In a 2023 article in Entrepreneur Magazine, Mazzone was quoted describing the process of selling Ace Member Stores:

> "If I wanted to sell my stores tomorrow, I would reach out to the local district manager and say that I'm interested in selling," he says. "They would reach out to their network of existing Ace retailers and ask them if anyone local was interested in buying. And if those retailers aren't interested, they might go ahead and look out for new investors who want to come into the business."[159]

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[157] Forum comment posted by Loserrr2 (u/Loserrr2), Reddit, *Incredibly small business question* (2024), https://www.reddit.com/r/acehardware/comments/1frqzdp/comment/lppx7cv/?context=3.

[158] *Id.*

[159] Yiren Lu, *Would You Turn Your Small Business Into a Franchise? Here's Why Everyone From Hardware Stores to Hot Dog Shops Are Doing It*, Entrepreneur (Sep. 20, 2023), https://www.entrepreneur.com/franchises/would-you-turn-your-small-business-into-a-franchise-heres/458406.

150. Mazzone thus explained that, if he wanted to sell his store, Ace Hardware Corporation would immediately seek an owner of a local Ace Member Store to purchase the store. And only if those owners were not interested would the Cooperative *potentially* "look out for new investors" in the local market.[160] In other words, the Ace Cooperative might not allow the store to remain an Ace Member Store at all if a local store owner did not want to acquire it. The practice of allowing existing cooperative members to exercise a veto over the entry of new members was condemned by the Supreme Court in *United States v. Topco Associates*, 405 U.S. 596, 602 (1972) (explaining that the market allocation scheme included not just exclusive territories, but also "a veto of sorts over actual or potential competition" due to "the procedure for approval" of new members, which gave special privileges to members nearby the applicant's proposed store).

151. The Ace Cooperative allows and encourages clustering of co-owned Member Stores because co-owned stores do not compete with one another on price.[161] As discussed earlier, between 2016 and 2022, new Ace Member Stores opened by an owner who had no other Ace Member Stores in 2016 were *20% farther* from their nearest neighbor than new Member Stores whose owners had at least one Ace Member Store in 2016. In other words, the Ace Cooperative allows more store clustering when the stores are co-owned. This is also evidence that, but for the threat of price competition, the Ace Cooperative would permit more store clustering.

152. An examination of the Ace Member Stores opened in particular local markets between 2016 and 2022 shows that Member Stores opened within a mile of their nearest neighbor Member Store are frequently opened by existing local store owners, many of whom also owned the nearest neighbor Member Store. For instance, between 2016 and 2022, Ace Member Store owner Kyung Paik opened two Tweedy and Popp Hardware locations in North Seattle in succession, the first store just over one mile (as the crow flies) from the second.[162] Moreover, each

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[160] *Id.*

[161] The Ace Cooperative's co-ownership preference also shows that there *is* demand for Ace Member Store clustering, so long as that clustering does not result in price competition.

[162] "North Seattle" is used here to refer to the portion of Seattle north of the Ship Canal. *See*

of these Member Stores was less than four miles from a single existing Tweedy and Popp Hardware location also in North Seattle, which was itself approximately four miles from a fourth Tweedy and Popp Hardware location in North Seattle. As another example, between 2022 and 2026, the Ace Member Stores in Chicago's River North and Near Northside neighborhoods, discussed above, went up for sale. In this sale, ownership transferred to the owner of JC Licht Ace, an existing chain of Ace Member Stores with common ownership, which now includes nearly a dozen stores in the Chicago area.

153. The Ace Cooperative's policies in favor of local co-ownership work in tandem with its restrictions on new store entry to limit price competition in local markets. Local Member Store owners doubly benefit from (1) reduced competition for customers in their local markets, and (2) the right to open new Member Stores in that local market rather than put up with the establishment of a new Member Store by a potential price competitor. These policies ensure that Ace Members Stores comprise significant percentages of many local convenience hardware markets and can charge supracompetitive prices without competition. For instance, Tweedy and Popp's four locations in North Seattle, plus one additional Ace Member Store with a different owner, mean that Ace Member Stores comprise 71% of all convenience hardware stores in North Seattle.[163] The other two stores are both Do it Best locations.

154. It is not independently rational for Member Store owners to locate stores far away from competitors. The normal strategy in a competitive market is to locate stores near other stores in order to capture their customers and benefit from commercial agglomerations. It is, however, collectively rational for stores to space themselves out so as to guarantee monopoly power over specific territories.

North Seattle, WikiTravel, https://wikitravel.org/en/Seattle/North (last visited May 6, 2026) ("North Seattle is a loosely-defined area, often including anywhere north of the Ship Canal that bisects the city.").

[163] North Seattle is not necessarily a relevant market for the purposes of antitrust analysis, but the Ace Cooperative's significant presence in the region reflects the Cooperative's ability to acquire market power in properly defined relevant markets.

IV. Anticompetitive Effects

155. Defendants' horizontal price coordination and market allocation schemes are *per se* illegal.

156. The anticompetitive harm of Defendants' price coordination and market allocation practices is also supported by both direct and indirect evidence of anticompetitive effects. The direct evidence includes the agreements themselves, as evidenced by the documentary evidence and statements cited in this complaint. These agreements are presumptively anticompetitive. Further evidence of these agreements is provided by the statistical and price evidence cited throughout this complaint. Other evidence of anticompetitive harm is detailed below.

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A. Ace Member Stores' Prices and Profits Have Steadily Increased

157. By insulating themselves from competition with location restrictions and coordinated pricing, Members of the Ace Cooperative Cartel have managed to charge supracompetitive prices to consumers. These supracompetitive prices are evident from the sample price data from Ace Member Stores discussed earlier in this complaint. The prices charged at nearby Member Stores varied by as much as 30%, were rooted in Cooperative-assigned Price Zones and Member Stores' chosen Price Levels, and had this variance despite the fact that the Member Stores had the same cost of acquisition.

158. These supracompetitive prices are also evident from the Ace Cooperative's Member Store profit data, which shows substantial and consistent profit increases over many years along with profit margins well in excess of other convenience hardware stores. The Ace Cooperative has reported that its same-store retail gross margins increased *every year* from 2009 through 2022.[164] From 2019 to 2021, the Cooperative's average retail store saw an increase of $800,000 in revenue and $200,000 in cash flow—reflecting a significant increase in profitability during the period.[165] This trend appears to have continued after 2022, given that Ace Corporate

[164] John Venhuizen, *A message from the President & CEO*, Ace Hardware Corporation (2022), https://www.acehardware.com/2022-annualreport/message-to-shareholders.

[165] John Venhuizen, *A message from the President & CEO*, Ace Hardware Corporation (2021),

Stores saw gross profits rise by over 13% between 2023 and 2025.[166] Furthermore, the Ace Cooperative's patronage distribution to Member Stores—effectively a dividend consisting of Ace Hardware Corporation's profits—increased every year from 2018 to 2025, growing from $142 million to $362 million.[167] The Ace Cooperative's patronage distributions to Member Stores have also risen when measured as a percentage of what those stores purchase from the Cooperative. Between 2010 and 2019 alone, Ace Hardware Corporation's reported "Handled Patronage Rebate" rose from 2.75% to 5.13%.[168] Finally, as of Q1 2025, the gross margins of Ace Corporate Stores were reportedly 47.9%,[169] a full 5.5% higher than the average convenience hardware store (even after including the average store's cooperative rebate).[170]

159. Additional evidence of Ace Member Stores' ability to charge supracompetitive prices is revealed when stores convert into Ace Members—by leaving the Do it Best cooperative, for instance. In an advertisement encouraging store owners to "Convert Your Store," the Ace Cooperative reports that the average store conversion results in a gross margin increase of 3.8%, a retail sales increase of 4.2%, and a gross profit increase of 7.9%.[171] The increase in gross margin combined with rising gross profits (and sales) suggests that these Member Stores were able to implement profitable price increases in their local markets by reducing competition.

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https://www.acehardware.com/2021-annualreport/message-to-shareholders.

[166] Ace Hardware Corporation, 2025 Annual Report at 4.

[167] John Venhuizen, *Message to Shareholders: President & CEO*, Ace Hardware Corporation (2025), https://www.acehardware.com/message-to-shareholders.

[168] *Program Overview – Why Ace is the Place*, Ace Hardware Publ'n p. 8 (2021), https://online.flippingbook.com/view/707392899/.

[169] *Ace reports 'record-breaking' Q1 revenues*, HBS Dealer (May 14, 2025), https://hbsdealer.com/ace-reports-record-breaking-q1-revenues.

[170] *2024 Market Measure: The Industry's Annual Report*, North American Hardware and Paint Association (2024), https://yournhpa.org/wp-content/uploads/2024/01/2024-Market-Measure-Report-NHPA.pdf.

[171] *Convert Your Store*, Ace Hardware Corporation, https://myace.com/convert-your-store/ (last visited May 6, 2026).

B. The Ace Cooperative and its Members Have Market Power in Relevant Markets

160. The anticompetitive effects of the Ace Cooperative's conduct are also evident from Ace Member Stores' market power in the relevant product market. Ace Member Stores compete in the convenience hardware market. As Ace Hardware Corporation explains in its 2021 Annual Report:

> Our domestic Retailers generally compete in what we call the "convenience hardware" segment of the overall home improvement industry. As differentiated from the overall home improvement industry, we consider the "convenience hardware" segment of the industry to be characterized by purchases primarily of products related to home improvement and repair. These products include paint and related products and lawn and garden equipment, as well as those products less focused on large-scale building, renovation and remodeling projects. . . . We believe the core customer of the convenience hardware market is a mission shopper who values helpful service, convenience and the feel and experience of a neighborhood hardware store. These customers' purchases are typically lower ticket-price items driven by do-it-yourself improvement, repair and maintenance projects and the need for everyday household and lawn and garden items. We believe our Retailers' core customer differs from the core customers of the large-format stores in that those stores typically value customers who are driven by larger scale home building and home improvement projects. Our internal analysis of customer purchases shows that the everyday improvement, maintenance and repair objectives of our Retailers' customers are a significant driver of our Retailers' sales.[172]

161. The Ace Cooperative's description of the relevant market in which Member Stores compete aligns closely to the factors considered for determining a relevant market under the Supreme Court's decision in *Brown Shoe Co. v. United States*, 370 U.S. 294 (1962).

162. First, the convenience hardware market has "industry or public recognition." *Brown Shoe*, 370 U.S. at 325. The term is regularly used in discussion of retail hardware markets, as evidenced by Ace Hardware Corporation's discussion of the market in its Annual Reports.

163. Second, convenience hardware stores have "peculiar characteristics and uses," *Brown Shoe*, 370 U.S. at 325, as Ace Hardware Corporation acknowledges when explaining that stores in this relevant market sell products primarily "related to home improvement and repair," as opposed to products for commercial or larger-scale projects.[173]

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[172] Ace Hardware Corporation, 2021 Annual Report at 5.

[173] *Id.*

164. Third, convenience hardware stores are themselves "unique production facilities," *Brown Shoe*, 370 U.S. at 325, characterized by stores smaller than "large-format stores" such as Home Depot and Lowe's, and by a higher density of employees providing helpful service.[174]

165. Fourth, convenience hardware stores have "distinct customers." *Brown Shoe*, 370 U.S. at 325. As Ace Hardware Corporation explains, a convenience hardware store's "core customer differs from the core customers of the large-format stores" and is typically a "mission shopper who values helpful service, convenience and the feel and experience of a neighborhood hardware store."[175]

166. Fifth, convenience hardware stores have "distinct prices," *Brown Shoe*, 370 U.S. at 325, as Ace Hardware Corporation acknowledges in distinguishing convenience hardware stores' customer base from the "value customers" who patronize large-format stores.[176]

167. Sixth, convenience hardware stores are also distinct in their "sensitivity to price changes," *Brown Shoe*, 370 U.S. at 325, since their customers are not value shoppers and are less price sensitive, allowing the stores in turn to be less sensitive to changes in their cost of acquisition.

168. Seventh, convenience hardware stores have "specialized vendors," *Brown Shoe*, 370 U.S. at 325—namely, the buyers' cooperatives that supply their membership with the vast majority of their products, and whose membership comprises the vast majority of the convenience hardware market in the United States. Meanwhile, large-format hardware stores such as Lowe's or Home Depot are not served by buyers' cooperatives.

169. The convenience hardware market thus bears all of the "practical indicia" of a relevant market. *Brown Shoe*, 370 U.S. at 325. It is in this market for convenience hardware that Ace Member Stores are able to charge supracompetitive prices to consumers based upon the anticompetitive market allocation and price collusion practices described above.

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[174] *Id.*

[175] *Id.*

[176] *Id.*

170. If there were only one company that operated local, service-oriented, neighborhood retail hardware stores, that company could profitably institute a small but substantial increase in price above competitive levels. This is because customers seeking out a local hardware store for everyday home maintenance or home improvement projects will frequently not be willing to travel the farther distance to a large-format hardware store, will not feel comfortable or sufficiently informed to navigate a large-format hardware store without high-quality service, or will place a high value on the experience of shopping at their "local" neighborhood hardware store.

171. Nor would such customers shop at specialty stores (like plumbing supply stores), where they cannot access the full range of home maintenance supplies that may be needed for a DIY project or multiple home maintenance projects involving different products. Because such customers value personal service, they would not substitute to online retailers like Amazon.

172. A hypothetical monopolist could impose a small but significant non-transitory increase in price (SSNIP) in the market for convenience hardware and not lose sufficient volume to make the price increase unprofitable. This demonstrates that the market for convenience hardware is a distinct market.

173. The relevant geographic markets are local trade areas, each defined as the area within approximately 15 minutes' driving distance of each Member Store's location, consistent with typical consumer travel patterns for convenience hardware and the defendants' territorial allocations. Because consumer trade areas naturally overlap—and a consumer approximately equidistant from two such trade areas may patronize either—some stores compete in more than one local market. This relevant geographic market is supported by Ace Hardware Corporation's statements that its customers value the "experience of a neighborhood hardware store,"[177] and by Ace Hardware Corporation's Chief Marketing Officer Kim Lefko's statement that "75% of the U.S. population is within 15 minutes of their local Ace store,"[178] ensuring that Ace Member Stores

[177] Ace Hardware Corporation, 2021 Annual Report at 5.

[178] Paul Talbot, *Inside The Ace Hardware Marketing Strategy*, Forbes (May 20, 2021).

are "local small businesses" that "attract their local customer."[179] The importance of the 15-minute driving radius to the Cooperative's understanding of local markets is also apparent from the earlier-quoted Reddit forum, where an Ace territory manager for Ace Hardware Corporation's subsidiary Emery Jensen Distribution reported that he was aware of "2 different stores less than a mile apart," but reported that "it takes 15 minutes to get between them."[180]

174. The Ace Member Stores from which Plaintiff Sean Twomey purchased, and Ace Member Stores generally, have significant market power within their local convenience hardware markets. Within an estimated 15-minute driving radius of Palos Ace Hardware are five other convenience hardware stores. Four of these convenience hardware stores are Ace Cooperative Member Stores—including Dejay's Ace Hardware and Duke's Ace Hardware. Within an estimated 15-minute driving radius of the Duke's Ace Hardware from which Plaintiff Sean Twomey purchased are also five convenience hardware stores, including Lemont Ace Hardware and Palos Ace Hardware, two other Ace Member Stores, and one convenience hardware store that is not an Ace Cooperative Member. Members of the Ace Cooperative thus comprise approximately 83% of convenience hardware stores in the local markets in which Plaintiff Sean Twomey purchased.

175. The Ace Member Stores from which Plaintiff William Crim purchased also have significant market power within their local convenience hardware markets. There is no other convenience hardware store within a 15-minute drive of Crested Butte Ace Hardware or Fullmer's Ace Hardware.

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[179] *Id.*

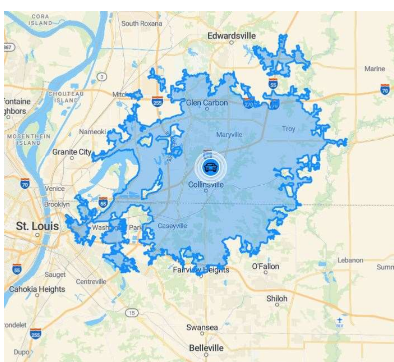
[180] Forum comment posted by PercyVeerance (u/PercyVeerance), Reddit, *How far apart must Ace Hardware stores be?* (2024), https://www.reddit.com/r/acehardware/comments/1c7p3zr/how_far_apart_must_ace_hardware_stores_be/; Forum comment posted by Ryl0Ken (u/Ryl0Ken), Reddit, *It has to do with your ace rewards…*(2024), https://www.reddit.com/r/acehardware/comments/1c7p3zr/how_far_apart_must_ace_hardware_stores_be.

176. The Ace Member Store from which Plaintiff Gregory Ernst purchased has significant market power within its local market. Within a 15-minute drive of the Rick's Ace Hardware location from which Mr. Ernst purchased are six other convenience hardware stores. One of these is another Rick's Ace Hardware location with which it does not compete, and three others are Westlake Ace Hardware locations with which it conspires to limit competition.

177. The Ace Member Store from which Plaintiff Jason Goodin purchased has significant market power within its local convenience hardware market. There is no other convenience hardware store within a 15-minute drive of Country Ace Hardware.

178. The Ace Member Store from which Plaintiff Adam Kleekamp purchased has significant market power within its local convenience hardware market. There are three other convenience hardware stores within a 15-minute drive of Westlake Ace Hardware, one of which is another Ace Member Store with which it conspires to limit competition.

179. To better illustrate the competition between Ace Member Stores for customers in their local markets, the below map provides an example of the 15-minute driving radius around Cotton's Ace Hardware in Collinsville, Illinois. Based upon this map, Cotton's Ace Hardware competes with Ace Hardware in Troy, Illinois, for the business of residents of Maryville, Illinois



(pop. 8,316), as Cotton's Ace Hardware and Ace Hardware in Troy are the only two convenience hardware stores within a 15-minute drive for Maryville residents.[181]

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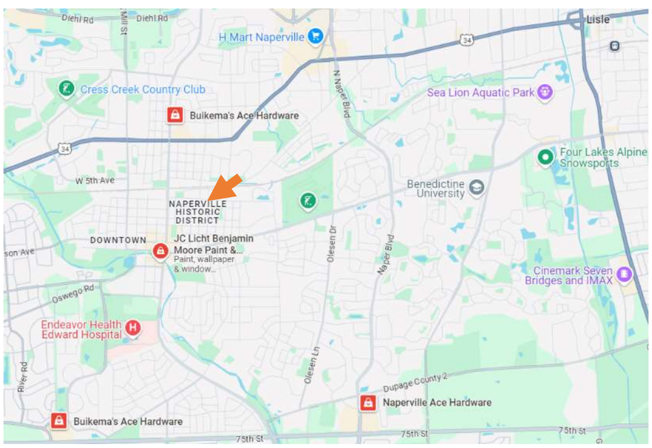
180. The dominance of Ace Member Stores in local markets means that individuals frequently have no nearby convenience hardware stores other than Ace Cooperative Members. A person living in the Naperville, Illinois, Historic District can reach three convenience hardware stores within a 15-minute drive, as shown below: Naperville Ace Hardware and two Ace Corporate Stores operating under the name Buikema's Ace Hardware. All three of these stores are in the same Price Zone, indicating that they implement simultaneous price increases with respect to their inventory in line with hotsheet recommendations from the Cooperative Cartel.



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181. In Chattanooga, Tennessee, there are seven Ace Member Stores. Six of these stores are "Elder's Ace" stores, including Defendant Ace Hardware of Chattanooga, Inc., while the seventh is "Ace Hardware of Lookout." As shown on the map below, for residents of

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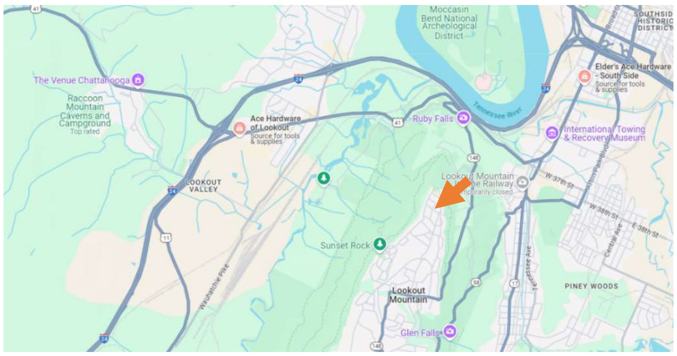
[181] Just outside the highlighted area four more Ace Member Stores—Cotton's Ace Hardware of Granite City, Ace Hardware in O'Fallon, Illinois, Ace Hardware of West Belleville, and Home Brite Ace Hardware in Belleville—as well as two competing convenience hardware stores (Don's Hardware of Belleville, a Do it Best store, and Pace True Value Hardware in Granite City). Thus, even if the local market were construed more broadly, Ace Member Stores would likely account for 75% of stores in the local market.

Chattanooga's Lookout Mountain neighborhood, the only two convenience hardware stores within a 15-minute drive are an Elder's Ace location and Ace Hardware of Lookout—both approximately 15 minutes away.



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182. Elder's Ace and Ace Hardware of Lookout both compete for customers in the Lookout Mountain neighborhood. These Member Stores could choose to compete on price, but this would result in lower profits for both stores—not just on sales to Lookout Mountain customers, but on sales to customers coming from elsewhere as well. That is where the Cooperative Cartel's local pricing guidance comes in to facilitate coordination to maintain supracompetitive prices, and earn higher profits by not competing with the other Member Store. And in fact, this Elder's Ace location and Ace Hardware of Lookout are in the same Price Zone (Z11003) and have chosen the same Price Level for all product categories.

183. Ace Member Stores' market power in local convenience hardware markets is supported by their share of nationwide convenience hardware revenues. Ace reported that its share of convenience hardware retail sales nationwide was 28% in 2020, based upon its $17.1 billion in domestic retail sales out of a $61.8 billion convenience hardware market.[182] In 2025, the Ace

[182] Ace Hardware Corporation, 2021 Annual Report at 5 ("According to a report by the North American Retail Hardware Association, U.S. convenience hardware store sales were estimated at approximately $61.8 billion in 2020. Ace estimates that its approximately 4,600 domestic outlets

Cooperative reported that its share of national convenience hardware retail sales was 32%.[183] This is consistent with Ace's rapid addition of stores during this period and the failure of True Value, which was acquired by Do it Best out of bankruptcy.

184. The fact that Ace's share of national convenience hardware retail sales rose from 28% to an estimated 32% between 2020 and 2025, during a period of time when Ace Member Stores have been increasing prices and enjoying increased profits, further supports the conclusion that Ace Member Stores enjoy significant market power in their local markets.

185. In the alternative, the geographic Price Zones assigned to Members by Ace Hardware Corporation are the relevant geographic markets for Member Stores within those Price Zones. The Ace Member Stores from which Plaintiffs purchased, and Ace Member Stores generally, have significant market power within their geographic Price Zones. Ace Cooperative Members comprise a significant percentage of the convenience hardware stores in the geographic Price Zones. The stores from which Plaintiffs purchased have an even higher share of their local markets. For instance, Ace Member Stores comprise a relatively high share of local convenience hardware markets in the Chicago area where Plaintiff Sean Twomey purchased. This is apparent from the fact that the Ace Cooperative has a combined 21 Member Stores in Chicago, Palos Heights, and Palos Hills, Illinois.[184] Meanwhile, Do it Best and True

generated approximately $17.1 billion in retail sales in 2020, capturing an estimated 28 percent of the domestic convenience hardware market, up from an estimated 25 percent in 2019."). Ace Hardware Corporation appears to use the North American Retail Hardware Association's measure for the overall "Hardware Stores" market—as distinct from the "Home Centers" and "Lumberyards" markets—as the measure of the size of the "convenience hardware" segment. *See 2020 Market Measure: The Industry's Annual Report*, North American Hardware and Paint Association (2020), https://yournhpa.org/wp-content/uploads/2021/01/2020-Market-Measure-Dan.pdf (reporting the total size of the 2020 "Hardware Stores" segment as $61.8 billion, the same figure quoted in Ace's annual report).

[183] *See* Ace Hardware Corporation, 2025 Annual Report at 26.

[184] Ace Hardware Corporation, 2025 Franchise Disclosure Document, *Active Ace Hardware Members as of December 31, 2024*.

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Value—which have more stores nationwide—have only a combined 17 stores in Chicago, Palos Heights, and Palos Hills.[185]

186. In the alternative, the relevant geographic market for convenience hardware stores is the Census-designated Metropolitan or Micropolitan Statistical Area in which the store is located. Stores located outside a given Census-designated Metropolitan or Micropolitan Statistical Area compete in a relevant market that is measured by a circle with a radius of the distance to the nearest Metropolitan or Micropolitan Statistical Area, plus the nearest store or stores in the nearest Metropolitan or Micropolitan Statistical Area. Ace Member Stores, including the Ace Member Stores from which Plaintiffs purchased, exercise significant market power within their Census-designated Metropolitan or Micropolitan Statistical Areas.

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187. Ace Member Stores frequently comprise a significant percentage of the market in a given Metropolitan or Micropolitan Statistical Area. For instance, the U.S. Census Bureau defines the Petoskey Micropolitan Statistical Area, which contains approximately 34,112 people, as coterminous with Emmet County, Michigan. The Petosky Micropolitan Statistical Area includes five convenience hardware stores: three Meyer Ace Hardware locations as well as Cook's Hardware and W.W. Fairbairn & Sons Hardware (non-Ace stores). Ace Member Stores thus comprise 60% of the convenience hardware stores in this relevant market.

188. Given that Ace Member Stores frequently earn higher revenue than average convenience hardware stores, Ace Cooperative Members likely comprise a higher percentage of each of the above-alleged relevant markets when measured by revenue.

189. In a competitive market, there are significant barriers to even two competitor hardware stores coordinating prices: setting aside the fact that doing so is illegal, such stores would need to share prices for thousands of individual items, monitor one another's compliance with the agreement, and manage ongoing price changes necessitated by changes in supplier prices or other

[185] *Store Locator – Illinois Stores*, Do it Best, https://www.doitbest.com/find-a-store/illinois (last visited May 6, 2026); *Find a Hardware & Lumber Store Near You in Illinois*, True Value, https://www.truevalue.com/find-a-store/illinois/ (last visited May 6, 2026).

market factors. The Ace Cooperative Cartel and Epicor together eliminate this difficulty across the geographic markets described above, enabling large numbers of Ace Member Stores to agree to coordinated prices across their inventory, and maintain that agreement on an ongoing basis.

C. Barriers to Entry

190. Another reason Ace Member Stores are able to charge supracompetitive prices are the significant barriers to entry in opening a convenience hardware store. Ace Hardware Corporation's raison d'etre as a buyers' cooperative is to pool the bargaining power of its Member Stores so that they can obtain price discounts from suppliers. An entrant to the convenience hardware market would be able to compete with Ace Member Stores on price only if it could obtain these discounts through the Ace Cooperative or its single competitor, Do it Best Corp. Following its acquisition of True Value at the end of 2024, Do it Best had an estimated 7,901 stores in the United States.[186] The Ace Cooperative, meanwhile, reported having 5,144 domestic stores at the end of 2024.[187] Ace Hardware Corporation's share of the market for national retail cooperative services for convenience hardware stores is thus approximately 39.4%. The fact that the market for national retail cooperative services is a duopoly means that a retail hardware store looking to leave DIB for another national cooperative will have no choice but to choose to become an Ace Member Store.[188] This gives the Ace Cooperative an immense amount of power to limit

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[186] Do it Best reported that its April 2024 acquisition of 610-member cooperative United Hardware (operating under the "Hardware Hank" name) increased its store count by 20%, implying that the cooperative had 3,660 stores following the acquisition. *See* Joe Carroll, *Do it Best Merges With Minnesota Based Hardware Distributor*, CBS Fort Wane (Apr. 11, 2024), https://www.wane.com/top-stories/do-it-best-merges-with-minnesota-based-hardware-distributor/. DIB then acquired the True Value cooperative, which reported having 4,241 domestic stores in 2023. *See Number of True Value Company Stores in the United States from 2017 to 2023*, Statista (July 2024), https://www.statista.com/statistics/1131549/true-value-company-stores-us/. This implies DIB's current United States store count is 7,901.

[187] *Ace Hardware Reports Fourth Quarter and Full Year 2024 Results*, Ace Hardware Corporation (Feb. 18, 2025), https://newsroom.acehardware.com/ace-hardware-reports-fourth-quarter-and-full-year-2024-results/.

[188] Within the market for national retail cooperative services for convenience hardware stores is an important sub-market: the market for nationally branded retail cooperative services for

entry, impose location requirements, or impose Right of First Refusal agreements on new stores. In other words, while the market for national retail cooperative services is not the relevant market in which Plaintiffs and the putative class made purchases, the Ace Cooperative's power in this market enables the Cooperative's Members to charge supracompetitive prices in local markets without inducing entry by new competitors.[189] The Ace Cooperative's dominance in the market for retail cooperative services also means that the Cooperative's own restrictions on adding new members are a significant barrier to entry.

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191. To better understand the Ace Cooperative's power, consider an entrepreneur who intends to open a local hardware store. This prospective store owner wants the services of a national retail hardware cooperative to ensure the new store has access to cooperative services, low wholesale acquisition costs, sophisticated supply chain support, and access to leading national brands. This prospective owner has two options: open an Ace store or open a Do it Best/True Value store. If his or her application for a Do it Best/True Value store is declined, the prospective owner's only option will be to open an Ace Member Store. And if the prospective owner believes it is

convenience hardware stores. This is the sub-market for convenience hardware stores that seek to join a retail cooperative that can provide them a ready-made brand, instead of investing the time and resources required to develop a local brand from scratch. The Ace Cooperative's share of this sub-market is even higher, as Do It Best engages in no national advertising, while its True Value brand engages in limited national advertising.

[189] The services of a national retail cooperative for convenience hardware stores cannot be substituted with the services of a wholesale distributor, such as Orgill, or the services of a local hardware co-operative. Wholesale distributors and local co-operatives do not provide rebates to customer stores, meaning that stores' cost of goods sold will generally be lower in a national cooperative. Wholesale distributors and local co-operatives also frequently lack access to major brands. Wholesale distribution and retail cooperative services are also complements, not substitutes. This is apparent from the fact that Ace Hardware Corporation operates Emery Jensen Distribution, which competes with Orgill in the wholesale distribution market, and sells to Do it Best stores when those stores cannot access a particular item through their cooperative. *See, e.g.*, Kenneth Clark, *Weber lines up with Ace and Emery Jensen*, HBS Dealer (May 8, 2025), https://hbsdealer.com/weber-lines-ace-and-emery-jensen (quoting Do it Best as stating that Emery Jensen Distribution representatives would be "approach[ing]" member stores to supply Weber grills). Finally, wholesale distributors do not provide the range of services a retail cooperative provides. Orgill also does not provide the ready-made brand recognition that labeling a store an "Ace" store (or, indeed, a "Do it Best" store) provides.

important to enter the local market with an established brand—and does not have the interest or ability to build a local brand from scratch—he or she will have only one option in the market for national retail cooperative services: open an Ace Member Store.

192. The total initial investment required to open a convenience hardware store is another barrier to entry. Whether with the Ace Cooperative or Do it Best, the cost of opening a convenience hardware store ranges from over $500,000 to over $1.5 million.[190] Moreover, given the highly local nature of the convenience hardware business, stores benefit from local ownership, limiting the pool of potential owners and further reducing competitive entry.

D. The Relevant Markets Are Prone to Collusion

193. The relevant markets in which the Ace Cooperative and its Member Stores compete are the kinds of markets where price fixing and market allocation is particularly feasible and where a coordinated information exchange is likely to result in harm to competition.

194. Market Concentration. As explained above, Ace Member Stores frequently comprise over 60%, and often 100%, of local relevant markets for convenience hardware. Ace Hardware Corporation, meanwhile, has nearly 40% of the market for national retail cooperative services for convenience hardware stores, and is one of only two competitors in that market.

195. Inelastic Demand. Demand for the products sold at convenience hardware stores is relatively inelastic, meaning demand does not sharply decrease when prices rise. This is because a large percentage of the items sold at convenience hardware stores are necessities, such as necessary household supplies and equipment necessary to make household repairs. The inelastic nature of the demand for Ace Member Stores' products is also apparent from the fact that Ace Hardware Corporation reports that Member Stores' customers are not "value customers" seeking out the lowest prices,[191] that its customers instead choose Ace Members for non-price aspects of

[190] Ace Hardware Corporation estimates that the total investment required to open a Member Store is "$650,000-$1,500,000+" and says that owners should have at minimum $350,000 in liquid capital and a net worth of $700,000. *See Open A New Store*, Ace Hardware Corporation, https://myace.com/open-a-store/ (last visited May 6, 2026).

[191] Ace Hardware Corporation, 2021 Annual Report at 5.

the experience such as "helpful service [and convenience],"[192] and that it expects its Member Stores will not offer "the lowest price in town."[193]

196. Fungibility and Price-Based Competition. The products sold by Ace Member Stores are highly fungible. They are fungible between convenience hardware stores, which carry many of the same items, both from identical brands (such as leading manufacturers of tools and specialty hardware), and interchangeable items from different brands (such as basic hardware supplies). The products sold at Ace Member Stores are especially fungible *among Ace Member Stores*, which carry much of the same merchandise due to using the Cooperative as their primary supplier, and stocking the Cooperative's chosen brands and private label items. Among other things, this fungibility promotes price discipline among Ace Member Stores, as stores can readily compare their relative prices and monitor their competitor Member Stores' compliance with the Cooperative Cartel's anticompetitive schemes.

197. Opportunities to Conspire. Ace Member Stores continuously collude through the price fixing and information sharing alleged in this complaint. They also have opportunities to discuss, evaluate, reaffirm, modify, and strengthen their collusive practices. Among these opportunities to collude are Ace regional store meetings, private internet forums, and Ace conventions.

198. Ace Member Stores meet with their regional competitors on a regular basis in informal meetings. As described in a recent article regarding a multi-store Ace Member Store chain bringing on the owner of a local competitor Ace Member as CEO, the founder of the Washington, D.C. chain met the owner of Fairfax Ace Hardware in Fairfax, Virginia, through their participation in "the region's Ace retailer group," in which they got to know one another through

[192] *Id.*

[193] Andrew Nusca, *The Future of Retail is Dynamic Pricing. So Why Can't We Get It Right?*, ZDNET (Oct. 2, 2013), https://www.zdnet.com/article/the-future-of-retail-is-dynamic-pricing-so-why-cant-we-get-it-right/.

"group meetings."[194] Dan Harris, the owner of the Palos Ace Hardware store from which Plaintiff Sean Twomey purchased, participates in and has led one such regional retailer group in the Chicago area.

199. In addition to regional store meetings, Ace Member Stores communicate in private online forums hidden from public view. For example, Ace Member Stores maintain a private Facebook group entitled "Ace Retail Execution," which has approximately 2,200 members and describes itself as a "place to find information, share information and have healthy discussions about topics that help you 'execute' at retail."[195] The group has a policy that information "shared in the group should stay in the group."[196] When an individual seeks to join the group, the webpage notes that it is "a closed group for Ace Hardware store owners, managers and corporate employees," and that prospective group members "must provide your store #, store name, city and RSC code or you will be declined."[197]

200. Ace Hardware Corporation also hosts twice-yearly conventions, which Member Store owners and managers are strongly encouraged to attend. These conventions are important opportunities to learn about products and business practices, but also include opportunities to socialize with competitor Member Stores. As a recent article about the Ace Hardware 2026 Spring Convention explained, on the convention floor "retailers connected with vendors and one another, sharing opportunities and challenges."[198] The 2026 Spring Convention had 12,000 attendees and 4,566 Ace retailer registrations, reflecting the fact that the vast majority of Ace Member Stores

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[194] *A New Cool CEO*, Paint & Decorating Retailer, https://pdrmag.com/passes-reins/ (last visited May 6, 2026).

[195] Ace Retail Execution Group, Facebook, https://www.facebook.com/groups/AceRetailExecution/ (last visited May 6, 2026).

[196] *Id.*

[197] *Id.*

[198] Lindsey Thompson, *Retailers Experience New Spaces, Familiar Facts at Ace Spring 2026 Convention*, Hardware Retailing (Mar. 1, 2026), https://hardwareretailing.com/retailers-experience-new-spaces-familiar-faces-at-ace-spring-2026-convention/.

have representatives present at these conventions.[199] The Ace Cooperative advertised its 2025 Fall Convention in Chicago as an opportunity to "build valuable relationships with other attendees" and "take advantage of margin-building opportunities."[200]

V. Antitrust Injury and Standing

201. Plaintiffs and the members of the putative class have suffered antitrust injury as a direct result of Defendants' unlawful conduct. Defendants unlawfully conspire with Ace Member Stores to charge Plaintiffs and members of the putative class supracompetitive prices for all products Member Stores sell. Defendants' price coordination schemes allow Ace Member Stores to coordinate pricing across their inventory. This price coordination enables the Member Stores to charge artificially higher prices on any products for which they do not exchange or directly compare pricing as well. Defendants' market allocation scheme further insulates Member Stores from local price (as well as non-price) competition, allowing Ace Member Stores to charge higher prices (and provide worse service) for every product they sell.

202. Plaintiffs and members of the putative class have antitrust standing to sue Defendants for purchases made at Ace Member Stores. Plaintiffs suffer antitrust injury because they purchase goods directly from the co-conspirator Ace Member Stores, which conspire with one another and the Defendants to raise retail prices through price-fixing, market allocation, and information-sharing. Plaintiff Adam Kleekamp and some class members also bought directly from Ace Corporate Stores, which are owned by Defendants Ace Hardware Corporation, Ace Retail Holdings LLC, and Ace Retail Group, Inc.

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[199] Lindsey Thompson, *Ace Looks to Regain its Convenience Crown Amidst Evolving Customer Expectations,* Hardware Retailing (Feb. 24, 2026), https://hardwareretailing.com/ace-looks-to-regain-its-convenience-crown-remain-hope-of-the-industry/.

[200] *Hardware Fall Convention 2025*, Hardware Connection (2025), https://thehardwareconnection.com/event/ace-hardware-fall-convention-2025/.

CLASS ACTION ALLEGATIONS

203. Plaintiffs bring this action on behalf of themselves and as a class action pursuant to Federal Rules of Civil Procedure 23(a), and 23(b)(2), 23(b)(3), and/or 23(c)(4) on behalf of the following proposed class:

> **Proposed Class:** All persons in the United States who purchased directly from a store that was, at the time of purchase, a member of the Ace Hardware Corporation retail co-operative or a store owned or operated by Ace Retail Holdings LLC, Ace Retail Group, Inc., or Ace Hardware Corporation at any time during the period from May 7, 2022, until the effects of the anticompetitive conduct ceased (the "Class Period").

204. Excluded from the class are: (a) Defendants and Ace Member Stores; (b) subsidiaries and affiliates of Defendants and Ace Member Stores; (c) any person or entity who is an officer, director, employee, or controlling person of any Defendant, Ace Member Store, or subsidiary or affiliate of any Defendant or any Ace Member Store; (d) any entity in which any Defendant or Ace Member Store has a controlling interest; (e) the legal representatives, heirs, successors, and assigns of any excluded party; and (f) any judicial officer presiding over this action, the members of his or her immediate family and staff, and any juror assigned to this action.

205. Numerosity. The members of the class are so numerous that joinder of all members is impracticable. Given the over 5,000 Ace retail stores in the United States, and the hundreds and likely thousands of unique retail customers most of the stores have, the number of class members is likely in excess of five million.

206. Typicality. Plaintiffs' claims are typical of the claims of the members of the class. Plaintiffs all purchased directly from Member Stores in the Ace Hardware Corporation Cooperative during the proposed class period. Plaintiffs' claims are also typical of the other class members in that Plaintiffs have been damaged as a result of paying a supracompetitive price to an Ace Member Store, and they continue to shop at Ace Member Stores due to, among other reasons,

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the proximity to their homes, therefore continuing to suffer harm due to the anticompetitive conduct alleged in this Complaint.

207. Adequacy. Plaintiffs will fairly and adequately protect the interests of the putative class and have retained counsel competent and experienced in antitrust litigation and class action litigation. Plaintiffs are committed to the vigorous prosecution of this action and have no interests that are adverse or antagonistic to the class.

208. Superiority. A class action is superior to all other available means for the fair and efficient adjudication of the claims of the members of the class. The damages suffered by some individual members of the class may be relatively small compared to the burden and expense of individual prosecution of the complex and extensive litigation required to recover from Defendants. It would be impractical for most, if not all, class members to redress the wrongs done to them on an individual basis. Furthermore, individual litigation would be unmanageable for the Court system as it would result in potentially thousands of individual lawsuits, creating the risk of inconsistent or contradictory judgments and increasing the delay and expense to all parties and the court system. In contrast, a class action would present far fewer management difficulties. Class action treatment provides the benefits of a single adjudication, economies of scale, and supervision by a single court. The members of the class are ascertainable through methods typical of class action practice and procedure, including through Defendants' own records.

209. Existence and Predominance of Common Questions of Law and Fact. Numerous questions of law and/or fact are common to Plaintiffs and all members of the class. These common questions will result in common answers for all class members that will impact the resolution of the claims on grounds equally applicable to all class members. These common questions, which

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predominate over any questions affecting only individual class members, include, but are not limited to:

A. Whether Defendants' and Ace Member Stores' localized pricing practices constitute horizontal price fixing in violation of Sherman Act § 1.

B. Whether Defendants' and Ace Member Stores' use of territorial restraints on Ace store locations, restrictions on opening new Ace stores, and restrictions directing the sale of Ace stores to existing local members constitutes an unreasonable horizontal restraint of trade in violation of Sherman Act § 1.

C. Whether Defendants' and Ace Member Stores' exchange of competitively sensitive information constitutes an illegal information exchange in violation of Sherman Act § 1.

D. Whether the market for convenience hardware within a 15-minute driving radius of a Member Store in the United States is a relevant antitrust market.

E. Whether Defendants' conduct resulted in supracompetitive prices paid at Ace Member Stores during the relevant period.

F. The correct measure of class-wide damages.

G. Whether injunctive relief is appropriate to restrain Defendants from continued anticompetitive conduct.

210. Certification is also appropriate under Federal Rule of Civil Procedure 23(b)(2), in addition to Federal Rule of Civil Procedure 23(b)(3), because Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the entire Class.

CAUSE OF ACTION I: HORIZONTAL PRICE FIXING

(All Defendants – 15 U.S.C. §§ 1, 3)

211. Plaintiffs incorporate by reference each of the allegations set forth in this complaint as if fully set forth herein.

212. Beginning at a time currently unknown to Plaintiffs, but at least as early as May 7, 2022, and continuing through the present, Defendants and Ace Member Stores engaged in a horizontal price fixing scheme by colluding to raise and stabilize prices at Ace Cooperative Member Stores. Defendants' conduct violates Section 1 of the Sherman Act, which prohibits "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations." 15 U.S.C. § 1.

213. Defendants participate in and facilitate a horizontal conspiracy to raise prices on customers of Ace Member Stores in the relevant markets for convenience hardware defined above. Defendants Ace Hardware Corporation and Epicor Software Corporation participate in and facilitate this price collusion with and on behalf of Ace Member Stores, including Independent Ace Stores and Ace Corporate Stores owned by Defendants Ace Retail Holdings LLC and Ace Retail Group, Inc., by, among other things, collecting, analyzing, and distributing Ace Member Stores' price and output data; by issuing Critical Price Change alerts to Ace Member Stores directing them to raise prices; by making localized price recommendations to Ace Member Stores; by encouraging Ace Member Stores to follow these price recommendations; and by developing, procuring, and supplying the technology that enables Ace Member Stores to collude to increase or stabilize prices.

214. Defendants and co-conspirator Ace Member Stores conspired and agreed with one another to implement this scheme. Defendants and their co-conspirators used the Ace Cooperative to implement this scheme.

215. In the alternative, Defendants participate in a hub-and-spoke conspiracy in which Defendants Ace Hardware Corporation and Epicor Software Corporation are the hub, each Ace Member Store is a spoke, and each Ace Member Store enters into the conspiracy with Ace

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Hardware Corporation and Epicor Software Corporation based upon the knowledge of the broader conspiracy and other Ace Member Stores' participation in the conspiracy. The Ace Member Stores also agree with their fellow Member Stores to participate in the conspiracy.

216. Defendants' horizontal price fixing conspiracy is illegal *per se*. In the alternative, Defendants' conspiracy is illegal after a "quick look." In the alternative, Defendants' conspiracy is illegal when evaluated in detail under the Rule of Reason.

217. The challenged conduct serves no legitimate or procompetitive purpose, including no legitimate cooperative purpose.

218. Defendants' conduct affects a substantial volume of interstate commerce.

219. Defendants' conduct has substantial anticompetitive effects, including increased prices and reduced output.

220. As purchasers from Ace Member Stores that are owned by Defendants or are co-conspirators with Defendants, Plaintiffs and the members of the proposed class have been harmed by Defendants' anticompetitive conduct in a manner that the antitrust laws were intended to prevent. Among other injuries, Plaintiffs and the putative class members paid more for products at Ace Member Stores than they would have in a competitive market. Plaintiffs and members of the proposed class will continue to suffer injuries until an injunction issues ending Defendants' anticompetitive conduct.

221. Plaintiffs and members of the putative class are entitled to treble damages, attorneys' fees and costs, and an injunction against Defendants to end the ongoing violations of law alleged herein pursuant to Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26.

CAUSE OF ACTION II: HORIZONTAL MARKET ALLOCATION

(Ace Hardware Corporation Defendants and Individual Member Store Defendants – 15 U.S.C. §§ 1, 3)

222. Plaintiffs incorporate by reference each of the allegations set forth in this complaint as if fully set forth herein.

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223. Beginning at a time currently unknown to Plaintiffs, but at least as early as May 7, 2022, and continuing through the present, Defendants Ace Hardware Corporation; Ace Retail Holdings LLC; Ace Retail Group, Inc.; Ace Hardware of Chattanooga, Inc.; Bellmore Home Center, Inc.; Bolster Hardware LLC; The Helpful Hardware Company, LLC; The Helpful Group, LLC; Niemann Foods, Inc.; W.E. Aubuchon Co., Inc.; and Whitmore Investments, Inc. (together, "Ace Defendants"), along with Ace Member Stores, engaged in a horizontal market allocation scheme to limit competition with and among Ace Member Stores. Ace Defendants' conduct violates Section 1 of the Sherman Act, which prohibits "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations." 15 U.S.C. § 1.

224. Ace Defendants agree to and impose territorial restrictions on existing Ace Member Stores and on prospective member stores, limit the entry of new Ace Member Stores at particular locations, restrict the ability of owners of existing Member Stores to open additional Member Stores or relocate their existing stores, limit the sale of Ace Member Stores to competitor cooperatives, and require the sale of Ace Member Stores in local markets to Ace Hardware Corporation or owners of Ace Member Stores whose stores are in the same local markets. Ace Defendants engage in this conduct to allocate markets among Ace Cooperative Members, enabling them to limit competition in their relevant markets and to charge supracompetitive prices to their customers.

225. Ace Defendants and Ace Member Stores conspired and agreed with one another to implement this scheme. Ace Defendants and their co-conspirators used the Ace Cooperative to implement this scheme.

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226. In the alternative, Ace Defendants participate in a hub-and-spoke conspiracy in which Defendant Ace Hardware Corporation is the hub, each Ace Member Store is a spoke, and each Ace Member Store enters into the conspiracy with Ace Hardware Corporation based upon the knowledge of the broader conspiracy and other Ace Member Stores' participation in the conspiracy. The Ace Member Stores also agree with their fellow Member Stores to participate in the conspiracy.

227. Ace Defendants' territorial restrictions are illegal *per se*. In the alternative, Ace Defendants' territorial restrictions are illegal after a "quick look." In the alternative, Ace Defendants' territorial restrictions are illegal when evaluated in detail under the Rule of Reason.

228. The challenged conduct serves no legitimate or procompetitive purpose, including no legitimate cooperative purpose.

229. Ace Defendants' conduct affects a substantial volume of interstate commerce.

230. Ace Defendants' conduct has substantial anticompetitive effects, including increased prices and reduced output.

231. As purchasers from Ace Member Stores that are owned by Ace Defendants or are co-conspirators with Ace Defendants, Plaintiffs and the members of the proposed class have been harmed by Ace Defendants' anticompetitive conduct in a manner that the antitrust laws were intended to prevent. Among other injuries, Plaintiffs and the putative class members paid more for products at Ace Member Stores than they would have in a competitive market. Plaintiffs and members of the proposed class will continue to suffer injuries until an injunction issues ending Ace Defendants' anticompetitive conduct.

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232. Plaintiffs and members of the putative class are entitled to treble damages, attorneys' fees and costs, and an injunction against Ace Defendants to end the ongoing violations of law alleged herein pursuant to Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26.

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CAUSE OF ACTION III: ANTICOMPETITIVE INFORMATION EXCHANGE

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(All Defendants – 15 U.S.C. §§ 1, 3)

233. Plaintiffs incorporate by reference each of the allegations set forth in this complaint as if fully set forth herein.

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234. Beginning at a time currently unknown to Plaintiffs, but at least as early as May 7, 2022, and continuing through the present, Defendants and Ace Member Stores engaged in an anticompetitive information exchange in violation of Section 1 of the Sherman Act, which prohibits "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations." 15 U.S.C. § 1.

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235. Defendants and Ace Member Stores exchanged competitively sensitive information between and among Ace Member Stores, including the Independent Member Store Defendants, as well as Ace Hardware Corporation, Ace Retail Holdings LLC, Ace Retail Group, Inc., and Epicor Software Corporation, causing anticompetitive effects without procompetitive justification.

236. Courts have long recognized that the coordinated exchange of competitively sensitive data by competitors can be anticompetitive and result in increased consumer prices. The exchange of information among Ace Member Stores that Defendants coordinate and participate in bears all the hallmarks of an anticompetitive information exchange.

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237. First, the information Defendants collect and share among local Member Stores includes current price and output data. Courts and commentators have long recognized that "exchanges of information about price and output carry the greatest potential for competitive harm"—so much so, that "an agreement to exchange such price information" should be viewed as "presumptively unlawful." 13 Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* ¶¶ 2111d1, 2113e (5th ed. 2025).

238. Second, Defendants do not publicize the price and output information they collect, but rather distribute that data via Mango Reports and hotsheets to Ace Member Stores exclusively, and analyze the data to formulate *recommended price increases* which they transmit to the individual Member Stores. For over 100 years, the Supreme Court has recognized the unique competitive harm that comes from a scheme that includes a "skilled interpreter" of competitively sensitive data who serves "to insistently recommend harmony of action." *Am. Column & Lumber Co. v. United States*, 257 U.S. 377, 411 (1921); *see also* Statement of Interest of the United States of America, *In re Granulated Sugar Antitrust Litigation*, No. 24-md-3110-JWB-DTS (D. Minn. June 24, 2025), ECF No. 415 at 12 (explaining that the Supreme Court "has warned of the special dangers posed by the joint use of intermediaries" when exchanging competitively sensitive information). Defendants' recommendations are indeed insistent—as explained above, Ace Hardware Corporation executives aim to keep stores "within the guard rails" of the Cooperative's pricing recommendations, and Defendants use software to urge stores to raise particular prices.

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239. Third, Defendants do not share and direct one price for stores nationwide, but rather share *localized* price and output data, and direct localized price increases that allow local Ace Member Stores to coordinate price in local markets to avoid competition. Given the highly local nature of the convenience hardware market, and Ace Member Stores' high market share in many local markets, localized recommendations are particularly harmful. *See* 13 Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* ¶ 2111d2 (5th ed. 2025) (explaining that "exchanges of price information" among firms with market power in a local market are likely to have anticompetitive effects).

240. Fourth, the products sold at Ace Member Stores are fungible and demand for the products is inelastic. Both of these factors were identified by the Supreme Court in *United States v. Container Corp. of America* as raising the likelihood of anticompetitive effects from an information exchange. 393 U.S. 333, 336–37 (1969).

241. Fifth, the fact that Defendants Ace Hardware Corporation and Epicor have tools, such as Critical Price Change alerts, that prevent stores from deviating from their price collusion schemes further raises the likelihood of anticompetitive effects.

242. Sixth, the information Ace Member Stores exchange among one another is highly specific, disaggregated data—showing granular, SKU-by-SKU price, output, and inventory data for the prior month among local competitors. Such exchanges of detailed information that venture beyond "data exchanged in the form of industry averages" and into data about "particular . . . prices" are understood to likely have anticompetitive effects. *In re Loc. TV Advert. Antitrust Litig.*, No. 18 C 6785, 2022 WL 3716202, at *4 (N.D. Ill. Aug. 29, 2022) (citing *Todd v. Exxon Corp.*, 275 F.3d 191, 211 (2d Cir. 2001)).

243. Finally, the fact that Defendants provide tools through which Member Stores *can and actually do* pre-commit to coordinate price movement and charge identical prices on the same products significantly enhances the likely anticompetitive effects of this information exchange.

244. Defendants' practice of collecting competitively sensitive information from Member Stores, sharing that information among Member Stores, and using that information to make coordinated recommendations of price increases, is precisely the sort of information exchange that courts expect to result in increased prices on consumers.

245. Defendants conspired and agreed with one another, and with co-conspirator Ace Member Stores, to implement this scheme. Defendants and their co-conspirators used the Ace Cooperative to implement this scheme.

246. In the alternative, Defendants participate in a hub-and-spoke conspiracy in which Defendants Ace Hardware Corporation and Epicor Software Corporation are the hub, each Ace Member Store is a spoke, and each Ace Member Store enters into the conspiracy with Ace Hardware Corporation and Epicor Software Corporation based upon the knowledge of the broader conspiracy and other Ace Member Stores' participation in the conspiracy. The Ace Member Stores also agree with their fellow Member Stores to participate in the conspiracy.

247. Commonly used and well-accepted economic models can be used to measure both the extent and the amount of the supracompetitive charge paid by Plaintiff and the putative class, such that the economic harm can be quantified.

248. Defendants' information exchange is a naked restraint of trade that is illegal *per se* because it is the result of a naked agreement to use information exchange to reduce competition. In the alternative, Defendants' information exchange scheme is illegal after a "quick look." In the alternative, it is illegal when evaluated in detail under the Rule of Reason.

249. The purpose of the conspiratorial conduct of Defendants and Ace Member Stores was to raise, stabilize, or maintain prices at Ace Member Stores in relevant markets. As a direct and foreseeable result of Defendants' anticompetitive conduct, Plaintiffs and members of the putative class paid supracompetitive prices for merchandise at Ace Member Stores nationwide.

250. As purchasers from Ace Member Stores that are owned by Defendants or are co-conspirators with Defendants, Plaintiffs and the members of the proposed class have been harmed by Defendants' anticompetitive conduct in a manner that the antitrust laws were intended to prevent. Among other injuries, Plaintiffs and the putative class members paid more for products at Ace Member Stores than they would have in a competitive market. Plaintiffs and members of the proposed class will continue to suffer injuries until an injunction issues ending Defendants' anticompetitive conduct.

251. Plaintiffs and members of the putative class are entitled to treble damages, attorneys' fees and costs, and an injunction against Defendants to end the ongoing violations of law alleged herein pursuant to Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26.

PRAYER FOR RELIEF

Wherefore, Plaintiffs, on behalf of themselves and the Class, pray for judgment against Defendants as follows:

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252. Determining that this action may be maintained as a class action pursuant to Federal Rule of Civil Procedure 23 and directing that reasonable notice of this action be provided to the Class pursuant to Rule 23(c)(2).

253. Awarding Plaintiffs and the Class treble damages for their injuries caused by Defendants' violations of the federal antitrust laws.

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254. Awarding Plaintiffs and the Class pre-judgment interest.

255. Granting Plaintiffs and the Class injunctive and other equitable relief enjoining Defendants, their officers, agents, servants, and employees, and all those acting in concert with the aforementioned parties, from engaging in the anticompetitive conduct alleged herein.

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256. Awarding Plaintiffs and the Class reasonable attorneys' fees and costs.

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257. Granting such other and further relief as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

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258. In accordance with Federal Rule of Civil Procedure 38, Plaintiffs hereby demand a trial by jury on all issues so triable.

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Dated: September 2, 2026

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Respectfully submitted,

By: */s/ David Walchak*

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