

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MARY KATE GULICK,
Plaintiff,

vs.

CARSON GROUP HOLDINGS, LLC,
Defendant.

CASE NO. 8:24-CV-00141

ANSWER TO AMENDED COMPLAINT AND JURY DEMAND

Defendant Carson Group Holdings, LLC, by and through its attorneys, and pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, hereby answers the Amended Complaint and Jury Demand (“Amended Complaint”) filed by Plaintiff Mary Kate Gulick and sets forth its affirmative defenses as follows:

INTRODUCTION

1. This is a cause of action under the Nebraska Fair Employment Practices Act, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act, challenging the Defendant’s unlawful discrimination and retaliation against, and termination of the Plaintiff.

ANSWER: Defendant admits that Plaintiff’s Amended Complaint alleges claims brought under the Nebraska Fair Employment Practice Act, Title VII of the Civil Rights Act of 1964 (“Title VII”), and the American with Disabilities Act (“ADA”). Defendant denies the remaining allegations in Paragraph 1 of the Amended Complaint.

JURISDICTION AND VENUE

2. Plaintiff Mary Kate Gulick (“Mary Kate”) is a resident of Omaha, Douglas County, Nebraska, and is a woman.

ANSWER: Upon information and belief, Defendant admits that Plaintiff identifies as female. Defendant is without knowledge or information sufficient to form a belief as to

the remaining allegations in Paragraph 2 of the Amended Complaint and, therefore, denies the same.

3. Defendant Carson Group Holdings, LLC (“Carson Group”) is a foreign corporation, incorporated in the State of Delaware in 2016. Carson Group is licensed to do business in the State of Nebraska, has its principal place of business in Nebraska, and is in fact doing business in the State of Nebraska.

ANSWER: Defendant admits that it is a limited liability company organized under the laws of the State of Delaware in 2016, is registered to conduct business in the State of Nebraska, has its principal place of business in Nebraska, and does business in Nebraska. Defendant denies the remaining allegations in Paragraph 3 of the Amended Complaint.

4. At all relevant times, Carson Group employed at least 15 employees for each working day in each of twenty or more calendar weeks within the appropriate time periods pursuant to the Nebraska Fair Employment Practices Act.

ANSWER: Defendant admits that in 2022 and 2023 it employed 15 or more employees. The remaining allegations in Paragraph 4 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

5. Carson Group employs 15 or more employees and is thus subject to the Americans with Disabilities Act.

ANSWER: Defendant admits that in 2022 and 2023 it employed 15 or more employees. The remaining allegations in Paragraph 5 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

6. This Court has original jurisdiction over Mary Kate's state law claims pursuant to Nebraska Revised Statute, Section 24-302 (Rev. 1943).

ANSWER: The allegations in Paragraph 6 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant admits that this Court has supplemental jurisdiction over Plaintiff's claims arising under the Nebraska Fair Employment Practice Act.

7. This Court has concurrent jurisdiction over Mary Kate's federal law claims.

ANSWER: The allegations in Paragraph 7 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant admits that this Court has original federal question jurisdiction over Plaintiff's claims arising under Title VII and the ADA.

8. Venue is proper in Douglas County in the State of Nebraska, as it is the county where a substantial portion of the events at issue occurred.

ANSWER: Defendant admits that venue is proper in this Court. Defendant denies the remaining allegations in Paragraph 8 of the Amended Complaint.

PROCEDURAL REQUIREMENTS

9. On or about July 10, 2023, within 300 days of the acts of which she complains, Mary Kate filed her Charge of Discrimination with the Nebraska Equal Opportunity Commission ("NEOC"), which was dually filed with the Equal Employment Opportunity Commission ("EEOC").

ANSWER: Upon information and belief, Defendant admits that Plaintiff signed a Charge of Discrimination to file with the Nebraska Equal Opportunity Commission ("NEOC") on or about July 10, 2023, which indicated an intent to dually file her charge with the Equal Employment Opportunity Commission ("EEOC"). The remaining allegations in

Paragraph 9 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

10. On or about November 13, 2023, within 300 days of the acts of which she complains, Mary Kate filed an Amended Charge of Discrimination with the Nebraska Equal Opportunity Commission (“NEOC”), which was dually filed with the Equal Employment Opportunity Commission (“EEOC”).

ANSWER: Upon information and belief, Defendant admits that Plaintiff signed an Amended Charge of Discrimination to file with the NEOC on or about November 7, 2023, which indicated an intent to dually file her charge with the EEOC. The remaining allegations in Paragraph 10 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

11. On April 24, 2024, the NEOC noted that the EEOC had issued a right to sue and dismissed its file on this case, less than ninety days (90) prior to the filing of the original Complaint in this matter.

ANSWER: Defendant admits that on April 24, 2024, the NEOC issued an administrative closure of the Charge Plaintiff filed with the NEOC. Defendant denies the remaining allegations in Paragraph 11 of the Amended Complaint.

12. On April 29, 2024, the EEOC issued a Dismissal of Charge and Notice of Right to Sue, less than ninety days (90) prior to the filing of the original Complaint in this matter.

ANSWER: Defendant admits that the EEOC issued a Dismissal of Charge and Notice of Right to Sue on April 29, 2024. Defendant denies the remaining allegations in Paragraph 12 of the Amended Complaint.

FACTUAL BACKGROUND

13. Mary Kate Gulick (“Mary Kate”) is an award-winning and respected marketing and brand strategy expert, focusing on the financial advice and wealth management sector.

ANSWER: Defendant admits that Plaintiff has marketing and brand experience in the financial advice and wealth management sector. Upon information and belief, Defendant further admits that Plaintiff has received several awards during her career. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 13 of the Amended Complaint and, therefore, denies the same.

14. Carson Group is a holding company which, through its subsidiaries, provides financial and wealth planning and investment management services, as well as professional services for a network of 130+ financial advice firms.

ANSWER: Defendant admits that it is a holding company, which, through its subsidiaries, provides financial and wealth planning and investment management services. Defendant denies the remaining allegations in Paragraph 14 of the Amended Complaint.

15. Carson Group hired Mary Kate as its Chief Marketing Officer (“CMO”) on June 22, 2021.

ANSWER: Defendant admits that Plaintiff’s first day as an employee of Defendant was June 22, 2021, and that she was hired as Defendant’s Chief Marketing Officer. Defendant denies the remaining allegations in Paragraph 15 of the Amended Complaint.

16. In late June 2022, Mary Kate described to her direct supervisor and Carson Group’s then-Managing Partner of Wealth Solutions, Jamie Hopkins (“Hopkins”), her dissatisfaction with the toxic leadership culture at Carson Group and informed Hopkins that she planned to resign. At that time, Hopkins informed Mary Kate that Carson Group’s minority investor no longer wanted

her to be CMO, and he wanted her for a different role. She expressed her intent only to stay until Hopkins could find a new CMO.

ANSWER: Defendant admits that Jamie Hopkins was Plaintiff's direct supervisor in the summer of 2022 and that Mr. Hopkins' title at the time was Managing Director. Defendant further admits that in the summer of 2022, Mr. Hopkins informed Plaintiff that outside investors and/or consultants had expressed concerns with Plaintiff's skills, ability, and conduct towards others. Defendant further admits that Plaintiff acknowledged to Mr. Hopkins her belief that she did not have the right skill set to lead Defendant's current marketing initiatives and she expressed her intent/desire to return to agency work and her plan to voluntarily resign from Defendant. Defendant denies the remaining allegations in Paragraph 16 of the Amended Complaint.

17. In mid-July 2022, Hopkins presented Mary Kate with other ideas for a Senior Vice President role, and Mary Kate reiterated her intent to leave Carson once Hopkins could find a replacement CMO.

ANSWER: Defendant admits that in the summer of 2022 Plaintiff stated her intent to voluntarily resign. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 17 of the Amended Complaint and, therefore, denies the same.

18. On August 8, 2022, when Mary Kate inquired about the CMO search, Hopkins informed her that no search had begun. He presented her with another leadership position. Mary Kate reminded Hopkins that she would not be staying with Carson and gave her formal notice of resignation.

ANSWER: Defendant admits that Plaintiff provided formal notice of her voluntary resignation in early August 2022 and at that time, there was no formal search by Defendant for a new CMO. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 18 of the Amended Complaint and, therefore, denies the same.

19. On September 8, 2022, Mary Kate won the Chief Marketing Officer (CMO) of the Year award from WealthManagement.com.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 19 of the Amended Complaint and, therefore, denies the same.

20. In late 2022, Mary Kate represented Carson Group at an industry conference. Mary Kate had a leadership role in organizing and conducting the conference that year.

ANSWER: Defendant admits that in her capacity as Defendant's then CMO, Plaintiff attended and had a leadership position related to a financial services industry conference (the "Conference") in the fourth quarter of 2022. Defendant denies the remaining allegations in Paragraph 20 of the Amended Complaint.

21. An employee of Carson Group allegedly sexually assaulted an attendee at that conference.

ANSWER: Defendant admits that an attendee at the Conference alleged unwelcome/non-consensual sexual conduct with a Carson non-managerial employee (who denied the accusation) (hereinafter referred to as the "Complaint"). Defendant denies the remaining allegations in Paragraph 21 of the Amended Complaint.

22. After learning of the alleged sexual assault, a Carson Group Executive called Mary Kate, as he felt he needed a female executive to provide him with emotional support as the Carson Group Executive responded to the victim.

ANSWER: Defendant admits that due to Plaintiff's leadership role at the Conference, she was initially made aware of the fact of the Complaint by a Carson executive. Defendant denies the remaining allegations in Paragraph 22 of the Amended Complaint.

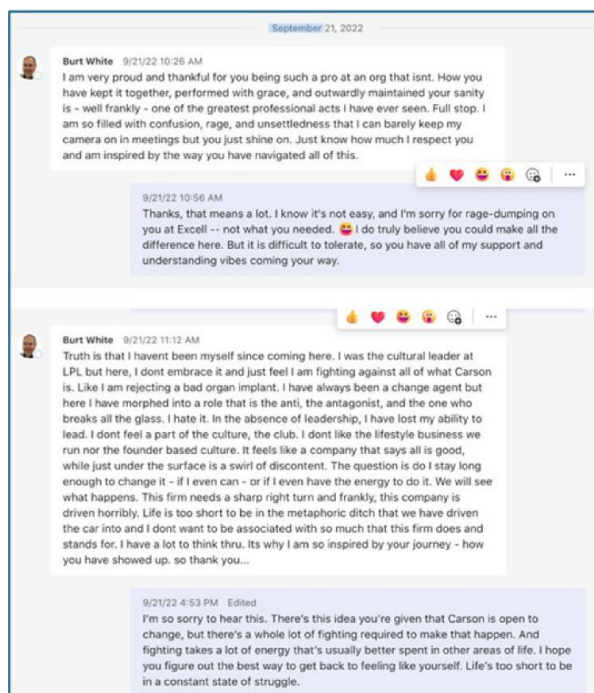
23. Mary Kate called Kelsey Ruwe ("Ruwe"), Carson Group's then-Chief of Staff and human resources leader, to inform her of the alleged sexual assault.

ANSWER: Defendant admits that Plaintiff telephoned Kelsey Ruwe, Defendant's then Chief Human Resource Officer, and made her aware of the Complaint. Defendant denies the remaining allegations in Paragraph 23 of the Amended Complaint.

24. A week after the alleged sexual assault at the conference, Mary Kate was assured by Teri Shepherd ("Shepherd"), Carson Group's President, that the sexual assault would be handled appropriately. It was not.

ANSWER: Defendant admits that it informed Plaintiff that an investigation of the Complaint was ongoing and that it would be handled consistent with Defendant's written policies. Defendant further admits that Teri Shepherd is its President. Defendant denies the remaining allegations in Paragraph 24 of the Amended Complaint.

25. On September 21, 2022, Carson Group's then-Managing Partner and Chief Strategy Officer Burt White ("White") and Mary Kate exchanged messages via Microsoft Teams.



White agreed with Mary Kate that Carson Group was not a professional organization and said he was “so filled with confusion, rage, and unsettledness” that he could barely keep his camera on in meetings. He described himself as “fighting against all of what Carson [Group] is.” White described Carson Group having an “absence of leadership,” a “swirl of discontent,” and “being driven horribly.” He criticized the “founder based culture,” said Carson Group’s leadership had “driven the car” into a “metaphorical ditch” and insisted he did “not want to be associated with so much [Carson Group] does and stands for.”

ANSWER: Defendant admits that in September 2022, Burt White was Defendant’s Managing Partner and Chief Strategy Officer. Defendant further admits that on September 21, 2022, Plaintiff and Mr. White exchanged messages on Microsoft Teams, but avers that the messages are written documents which speak for themselves. Defendant denies all remaining allegations in Paragraph 25 of the Amended Complaint.

26. In the exchange described in paragraph 25, White complimented Mary Kate's professionalism and leadership in the immediate wake of the conference where the sexual assault had allegedly occurred.

ANSWER: Defendant admits that on September 21, 2022, Plaintiff and Mr. White exchanged messages on Microsoft Teams, but avers that the messages are written documents which speak for themselves. Defendant denies all remaining allegations in Paragraph 26 of the Amended Complaint.

27. On October 7, 2022, Mary Kate indicated to her therapist that she was not doing well following a "major work-related incident." She was struggling to maintain self-care and especially struggling to sleep.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to alleged statements made by Plaintiff to a third party as alleged in Paragraph 27 of the Amended Complaint and, therefore, denies the same.

28. After Hopkins repeatedly asked Mary Kate to stay at Carson, she struggled with the decision of whether to do so. She did not feel comfortable with the leadership of Carson Group or how Carson Group handled its employee's alleged sexual assault of its client at the conference now that it was clear that the alleged assailant would be staying with the company. She was deeply troubled by Carson Group's complete lack of concern about having an alleged sexual predator working there, where he was interacting and traveling with Carson Group's female employees.

ANSWER: Defendant admits that in the fall of 2022 Defendant's leadership team offered Plaintiff a Senior Vice President position and Plaintiff accepted. Defendant denies the remaining allegations in Paragraph 28 of the Amended Complaint.

29. On October 14, 2022, Mary Kate was ultimately convinced by Hopkins to stay on at Carson Group as Senior Vice President, Advisor Marketing and Sales Enablement, a lesser role with less responsibility, which required her to turn down an outside role that she had already accepted. Mary Kate crafted the bonus structure herself, which was lower than her previous role, because she felt a lower bonus structure was appropriate for the more focused nature of the role. Mary Kate felt any pay cut was worthwhile, as she was deeply concerned that the team she supervised, many of whom she had recruited herself, were being put at risk by Carson Group's failure to address the threat posed by its tolerance of sexual misconduct. She felt this was highlighted by Carson Group's failure to take any meaningful action to protect others from the alleged assailant. Mary Kate felt she owed it to the women on her team to stay at Carson Group, push for change and accountability, and do her best to protect them.

ANSWER: Defendant admits that in the fall of 2022 Defendant's leadership team offered Plaintiff a Senior Vice President position and Plaintiff accepted. Defendant further admits that the role Plaintiff accepted had less responsibility than the CMO role she voluntarily resigned from. Defendant further admits that Plaintiff negotiated and agreed to her compensation for the new, reduced role and that her base salary remained the same but her bonus eligibility was reduced (which Defendant further agrees was reasonable). Defendant admits that Plaintiff announced her new position (and her reasons for accepting the role) in an October 14, 2022 email to Defendant's Marketing Department. Defendant denies the remaining allegations in Paragraph 29 of the Amended Complaint.

30. Mary Kate found out the alleged assailant, who was still employed by Carson Group, was permitted to travel to another conference after the alleged assault. Mary Kate felt that by continuing to allow this individual to travel to conferences, Carson Group was negligently and

irresponsibly creating an unnecessary risk to female employees and conference attendees. She was particularly worried about the female members of her team, who she recruited and felt personally responsible for, and who frequently traveled to those conferences.

ANSWER: Defendant admits that during the investigation of the Complaint, the accused non-managerial employee traveled to a single work-related conference and that no concerns were raised about this employee's behavior/conduct by anyone at the conference (or at any time thereafter). Defendant further admits that throughout her employment Plaintiff recruited and encouraged outside individuals to apply for positions with Defendant. Defendant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 30 concerning Plaintiff's alleged subjective mental impressions and, therefore, denies the same. Defendant denies the remaining allegations in Paragraph 30 of the Amended Complaint.

31. On October 21, 2022, Mary Kate discussed her concerns about Carson Group's poor judgment with Shepherd. Mary Kate made clear her objections to the alleged assailant continuing to be employed by Carson Group, being allowed to travel to conferences, and the risks that both posed to female employees and conference attendees. The following week Mary Kate also discussed her concerns with the alleged assailant's supervisor.

ANSWER: Defendant admits that Plaintiff expressed her opinion to Ms. Shepherd that the accused non-managerial employee should not be allowed to travel. Defendant further admits that in violation of Defendant's written policy protecting the confidentiality (and privacy of the complainant) of the investigation, Plaintiff disclosed the Complaint to others, including the supervisor of the accused non-managerial employee. Defendant denies the remaining allegations in Paragraph 31 of the Amended Complaint.

32. On October 28, 2022, then-Carson Group General Counsel Kevin Miller (“Miller”) and Ruwe reprimanded Mary Kate for discussing her concerns about the alleged assailant putting female employees at risk and the danger it posed if he was allowed to travel to conferences. Miller and Ruwe informed Mary Kate that an investigation was being conducted, there were legal considerations involved, and she was not permitted to speak about what happened at the conference, how it had been handled, or express concerns or objections.

ANSWER: Defendant admits that on or about October 28, 2022, Kevin Miller, Carson’s then General Counsel, and Ms. Ruwe met with Plaintiff and verbally counseled her regarding her admission that she shared the Complaint (and identity of those involved) with others in violation of Defendant’s written policies and agreement to protect the confidentiality of the investigation. Defendant denies the remaining allegations in Paragraph 32 of the Amended Complaint.

33. In early November 2022, Mary Kate met with Ruwe. The subject of Carson Group’s handling of the alleged sexual assault came up during their meeting. Ruwe told Mary Kate she disagreed with the decision Carson Group had made not to fire the alleged assailant, but as the decision had been made by Ron Carson himself, she had to support it.

ANSWER: Defendant admits that at some time in late 2022 Plaintiff told Ms. Ruwe that she believed the accused non-managerial employee should be terminated. Defendant denies the remaining allegations in Paragraph 33 of the Amended Complaint.

34. On January 11, 2023, Mary Kate told Ruwe she wasn’t eating, was barely sleeping, and was experiencing physical health issues as a result of how the alleged sexual assault at the conference was being handled. Mary Kate told Ruwe she had stayed at Carson Group out of a sense of guilt for bringing good people into an unsafe environment. Mary Kate told Ruwe she was

sure this was not the first time Ruwe had dealt with someone being traumatized by something that had happened at Carson Group. Ruwe responded by saying “You have no idea.”

ANSWER. Defendant admits that in January 2023 Plaintiff informed Ms. Ruwe that she was experiencing health issues and in response, Ms. Ruwe directed Plaintiff to contact Lauren Goranson to obtain information related to Defendant’s FMLA policy and that Ms. Ruwe directed Plaintiff to let her know if she needed anything else from Defendant to assist her with performing her job. Defendant denies all remaining allegations in the Paragraph 34 of the Amended Complaint.

35. On January 13, 2023, Mary Kate told a Carson Group Executive she was having some neurological issues related to the work stress she had been dealing with from the past year.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 35 of the Amended Complaint and, therefore, denies the same.

36. Over time, Mary Kate’s mental health began to deteriorate, as a reaction to the trauma of the alleged sexual assault at the conference and Carson Group’s failure to respond appropriately to the alleged sexual assault.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the allegations related to Plaintiff’s health and, therefore, denies the same. Defendant denies the remaining allegations in Paragraph 36 of the Amended Complaint.

37. On January 24, 2023, Mary Kate requested Kelsey Ruwe provide her with guidance on how to apply for intermittent FMLA.

ANSWER: Defendants admits the allegations in Paragraph 37 of the Amended Complaint.

38. On January 31, 2023, Mary Kate submitted completed FMLA leave forms to Carson Group's Director of HR Lauren Goranson, so that Mary Kate could attend appointments with her providers without those appointments impacting her employment status. In the completed forms Mary Kate submitted, she indicated the conditions for which she was seeking leave were major depressive disorder, post-traumatic stress disorder, and chronic brain impairment. She further indicated she would need to attend appointments with mental health professionals one to two times per week through January 2024. Carson Group informed Mary Kate she would need to take her intermittent leave time as unpaid or as paid time off (PTO), and if she wanted to be able to make up time, she would not be allowed to have the protections of FMLA for her doctor's appointments.

ANSWER: Defendant admits that on or about January 28, 2023, Plaintiff submitted a FMLA medical certification form completed by Plaintiff's doctor to Lauren Goranson, Defendant's Director of Human Resources, and that Plaintiff's doctor indicated that Plaintiff's medical condition commenced on March 31, 2022. Defendant avers that the FMLA medical certification form completed by Plaintiff's doctor is a written document which speaks for itself. Defendant further admits that it approved Plaintiff's request for leave under Defendant's FMLA policy and provided Plaintiff the option, among others, of using PTO to ensure she was paid for the time she missed from work or she could make up the missed time. Defendant denies the remaining allegations in Paragraph 38 of the Amended Complaint.

39. On February 7, 2023, Carson Group approved Mary Kate's FMLA leave request.

ANSWER: Defendant admits the allegations in Paragraph 39 of the Amended Complaint.

40. On February 8, 2023, Mary Kate again described to White and Shepherd how traumatizing the way Carson Group had handled the alleged sexual assault at the conference had been for her and how affected she had been by it. Both agreed that Mary Kate's pre-conference performance and behavior were exemplary.

ANSWER: Defendant denies the allegations in Paragraph 40 of the Amended Complaint.

41. On February 10, 2023, a Carson Group Executive informed Mary Kate she would only receive 75% of her target bonus for the second half of 2022. When Mary Kate asked why she was being penalized, the Carson Group Executive told her she was communicating in a negative way. Mary Kate asked the Carson Group Executive for examples of any such negative communications, and he was unable to point to any specific examples in the rating period. Instead, he provided an example of a meeting in the rating period that occurred subsequent to the bonus period (a meeting in which Mary Kate used the term "Hiring Crisis"), and one from the period prior to the bonus period (regarding interactions with a consultant).

ANSWER: Defendant admits that Plaintiff earned 75% of her target bonus for 2022. Defendant denies the remaining allegations in Paragraph 41 of the Amended Complaint.

42. On February 13, 2023, Mary Kate had a meeting with White and Shepherd, immediately following their two-on-one meeting with a Carson Group Executive. In the meeting, White and Shepherd gave Mary Kate a generic offer of support. Mary Kate told White and Shepherd that the company had "broken [her] like a twig," and that she was working with several healthcare professionals to try and put herself back together. Mary Kate shared with White and Shepherd that she was taking intermittent FMLA leave for this. White said that it made him sad to

hear Mary Kate say she was broken. He counseled Mary Kate to prep for how she showed up and to identify her “triggers.”

ANSWER: Defendant denies the allegations in Paragraph 42 of the Amended Complaint.

43. Later that day, Mary Kate met again with a Carson Group Executive to discuss her review. He told her in this meeting, less than a week after she’d been approved for intermittent FMLA leave for PTSD and major depressive disorder, that she had been a disappointment to him over the past months and that she needed to be “less emotional” about work.

ANSWER: Defendant admits that in early 2022, Plaintiff was given her written annual performance review by her direct supervisor and that Plaintiff and her supervisor had a discussion regarding the review. Defendant denies the remaining allegations in Paragraph 43 of the Amended Complaint.

44. In early March 2023, Mary Kate gifted Carson Group President Teri Shepherd with an art print and provided a letter apologizing for raising her voice while discussing her concerns about the conference and the way her team was being treated. A few days later, at a meeting between Mary Kate and Shepherd in Shepherd’s office, Shepherd said she also owed Mary Kate an apology for not doing enough to protect her and other women in the organization.

ANSWER: Defendant admits that sometime in the spring of 2023 Plaintiff gave Ms. Shepherd a letter wherein Plaintiff apologized for her unprofessional behavior (including raising her voice). Defendant denies the remaining allegations in Paragraph 44 of the Amended Complaint.

45. In mid-March 2023, a Carson Group Executive stopped by Mary Kate’s office for an unscheduled conversation. He told Mary Kate a story about a time in the past when he sought

mental health treatment during a difficult time of his life. It was apparent he knew Mary Kate was struggling with her own mental health challenges and he was trying to establish a connection with her.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the allegations related to statements made in an alleged conversation in mid-March 2023 between Plaintiff and an executive and, therefore, denies the same. Defendant denies the remaining allegations in Paragraph 45 of the Amended Complaint.

46. On May 2, 2023, Mary Kate was at a conference dinner. A sales team member noticed how dramatically Mary Kate's appearance had changed and told her she had a theory that something happened to Mary Kate at the conference and that was why she had become so thin and sick. Mary Kate provided no details about the incident, but stated there was an incident to which she had to respond.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 46 of the Amended Complaint and, therefore, denies the same.

47. On May 15, 2023, Mary Kate told White she was not in a good frame of mind, she had learned multiple troubling facts about Carson Group at her last few conferences from both internal and external sources, and she felt she was operating outside her integrity by continuing to work for the company. When White asked why Mary Kate would continue to work at a company that made her feel this way, Mary Kate explained she felt a responsibility to the multiple women she brought into the organization and she could not afford to be without employment. Mary Kate was still meeting or exceeding all of her goals. She told White she felt she needed to remain at Carson Group so she could protect the female employees she had brought in because no one else

would “have their backs” if something happened. White said the most important leadership skill Mary Kate could learn was “forgiveness” and told her if she didn’t “get over” what happened at the conference, “you’ll drive yourself and everyone else crazy.”

ANSWER: Defendant admits that Mr. White met with Plaintiff on or about May 15, 2023, to discuss inappropriate behavior by Plaintiff. Defendant denies the remaining allegations in Paragraph 47 of the Amended Complaint.

48. On or around May 17, 2023, Mary Kate met with Shepherd for a one-on-one meeting in Shepherd’s office. Mary Kate shared with Shepherd that she was hearing upsetting stories about Carson Group from within the company and outside of it, and leadership would need to rehab Carson Group’s culture for Carson to recover, rebuild its reputation, and achieve its business goals. Shepherd agreed.

ANSWER: Defendant admits that Ms. Shepherd had a conversation with Plaintiff at some time in the spring of 2023 wherein they discussed their agreement that Burt White was a strong supporter of women in the industry and they further discussed their alignment with the Excell Represent mission that they had partnered on. Defendant denies the remaining allegations in Paragraph 48 of the Amended Complaint.

49. On June 1, 2023, Mary Kate was informed she was a finalist for Innovator of the Year and the Women in Wealth Study she led was a finalist for Advisor Service of the Year.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 49 of the Amended Complaint and, therefore, denies the same.

50. From June 5 through 6, 2023, Mary Kate and a Carson Group Executive discussed how traumatic the conference had been for both of them. The Carson Group Executive told Mary

Kate “God I hate [that conference]. I can’t enjoy any conference now.” He then added “Yeah emotionally I’m not recovered. I’ve changed. My joy is gone.” Mary Kate told the Carson Group Executive how traumatized she had been by the conference and its aftermath, noting she still “could not force down more than a few hundred calories a day” and was still having nightmares.

ANSWER: Defendant admits that Plaintiff and an executive (to whom Plaintiff did not report) exchanged messages on June 5 and June 6, 2023. Defendant avers that the messages are written documents that speak for themselves. Defendant denies the remaining allegations in Paragraph 50 of the Amended Complaint.

51. On June 6, 2023, Burt White (“White”), Carson Group’s then-Managing Partner and Chief Strategy Officer, informed Mary Kate she was being terminated. White told Mary Kate he felt she oscillated “between greatness and, I don’t know, unhappiness.” He explained that he came into the meeting “with no plan,” but he wanted to exit her from the company. Mary Kate explained that Carson had sapped all of her happiness, confidence, and general wellness, and that she was neither eating nor sleeping. Mary Kate further indicated she was seeing doctors and was experiencing periods of time where she felt better. After Mary Kate explained the betrayal she felt when Carson Group refused to do the right thing after the conference and how she felt the company held it against her, had broken her trust in multiple ways, and that she was psychologically broken, White told Mary Kate he would need to move up her termination date to the following day. White told Mary Kate about two other men in leadership who were professionally underperforming, and that White would be moving them to different leadership positions or reducing their responsibilities. White said that his solution for Mary Kate, however, was to exit her from Carson because of her continued unhappiness.

ANSWER: Defendant admits that White met with Plaintiff on or about June 6, 2023 to discuss her future at Carson and Mr. White shared with Plaintiff that he did not come to the meeting with a plan for her to leave the company. Defendant agrees that Mr. White and Plaintiff made various statements throughout the meeting and that the meeting ended with Mr. White and Plaintiff jointly agreeing that Plaintiff would leave Defendant and her last day of employment would be June 7, 2023. Defendant is without knowledge or information sufficient to form a belief as to the specific statements attributable to Plaintiff and Mr. White and, therefore, denies the same. Defendant denies the remaining allegations in Paragraph 51 of the Amended Complaint.

52. Mary Kate's last date of employment with Carson Group was June 7, 2023.

ANSWER: Defendant admits the allegations contained in Paragraph 52 of the Amended Complaint.

53. Carson Group executives subjected Mary Kate to repeated demeaning and insulting comments about her perceived inability or unwillingness to simply forget about the alleged sexual assault by Carson Group's employee, move on, and get over it.

ANSWER: Defendant denies the allegations contained in Paragraph 53 of the Amended Complaint.

54. Carson Group approved Mary Kate's application for intermittent FMLA, which it knew she required for a medical diagnosis of major depressive disorder and PTSD. Carson Group then fired Mary Kate because she didn't seem happy or like she was "having fun."

ANSWER: Defendant admits that its Human Resources Director, Ms. Goranson, approved Plaintiff's request for FMLA leave based on the information provided by

Plaintiff's doctor. Defendant denies the remaining allegations in Paragraph 54 of the Amended Complaint.

55. Upon information and belief, one or more employees from Carson Group informed the editorial board of the industry's primary trade publications and multiple industry influencers, that Mary Kate was fired by Carson Group and was on bad terms with Carson Group.

ANSWER: Defendant denies the allegations contained in Paragraph 55 of the Amended Complaint.

COUNT I
VIOLATION OF THE
NEBRASKA FAIR EMPLOYMENT PRACTICE ACT
(SEX DISCRIMINATION)

56. Mary Kate incorporates Paragraphs 1 through 55 by this reference as if fully set forth.

ANSWER: Defendant incorporates herein by reference, as though fully set forth herein, each of its responses to the above numbered Paragraphs 1-55.

57. Defendant discriminated against Mary Kate with respect to the terms and conditions of her employment in violation of the Nebraska Fair Employment Practice Act.

ANSWER: Defendant denies the allegations contained in Paragraph 57 of the Amended Complaint.

58. Mary Kate's sex was a motivating factor in the discrimination, harassment, and termination she experienced.

ANSWER: Defendant denies the allegations contained in Paragraph 58 of the Amended Complaint.

59. As a result of the Defendant's acts and omissions, Mary Kate has in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear;

anguish; humiliation; embarrassment; lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

ANSWER: Defendant denies the allegations contained in Paragraph 59 of the Amended Complaint.

COUNT II
VIOLATION OF THE
NEBRASKA FAIR EMPLOYMENT PRACTICE ACT
(RETALIATION)

60. Mary Kate incorporates Paragraphs 1 through 59 by this reference as if fully set forth.

ANSWER: Defendant incorporates herein by reference, as though fully set forth herein, each of its responses to the above numbered Paragraphs 1-59.

61. Mary Kate complained in good faith about Carson Group's treatment of the alleged victim of sexual assault at the conference, Carson Group's failure or refusal to put protective measures in place to prevent the alleged assailant from sexually assaulting others, and Carson Group's retaliation against her for the protected activity she engaged in by making such complaints.

ANSWER: Defendant denies the allegations contained in Paragraph 61 of the Amended Complaint.

62. Defendant retaliated against Mary Kate for complaining about and reporting its unlawful behavior by escalating its harassment of her and ultimately terminating her.

ANSWER: Defendant denies the allegations contained in Paragraph 62 of the Amended Complaint.

63. It is unlawful under the laws of the State of Nebraska for an employer to discriminate against an employee for opposing any practice made an unlawful employment practice by the Nebraska Fair Employment Practice Act.

ANSWER: The allegations contained in Paragraph 63 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant avers that the NFEPA is a written statute which speaks for itself.

64. Mary Kate's protected activity in opposing Defendant's unlawful behavior was one but-for cause of Defendant's retaliatory conduct against Mary Kate that resulted in the further harassment and discrimination that she experienced, culminating in her termination.

ANSWER: Defendant denies the allegations contained in Paragraph 64 of the Amended Complaint.

65. As a result of the Defendant's acts and omissions, Mary Kate has in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish; humiliation; embarrassment; lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

ANSWER: Defendant denies the allegations contained in Paragraph 65 of the Amended Complaint.

COUNT III
**VIOLATION OF THE NEBRASKA FAIR EMPLOYMENT
PRACTICE ACT
(DISABILITY DISCRIMINATION)**

66. Mary Kate incorporates Paragraphs 1 through 65 by this reference as if fully set forth.

ANSWER: Defendant incorporates herein by reference, as though fully set forth herein, each of its responses to the above numbered Paragraphs 1-65.

67. Mary Kate suffers from one or more impairments that substantially limit her in one or more major life activities, has a record of suffering from one or more impairments that substantially limit her in one or more major life activities, and/or was regarded by Defendant as having a disability.

ANSWER: The allegations contained in Paragraph 67 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

68. Mary Kate was qualified to perform the essential functions of her job with Defendant with the reasonable accommodation of time off to attend medical appointments.

ANSWER: The allegations contained in Paragraph 68 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

69. Defendant terminated Mary Kate because of her disability.

ANSWER: Defendant denies the allegations contained in Paragraph 69 of the Amended Complaint.

70. As a result of Defendant's acts and omissions, Mary Kate has in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish, humiliation, embarrassment; lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

ANSWER: Defendant denies the allegations contained in Paragraph 70 of the Amended Complaint.

COUNT IV
VIOLATION OF TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964
(SEX DISCRIMINATION)

71. Mary Kate incorporates Paragraphs 1 through 70 by this reference as if fully set forth.

ANSWER: Defendant incorporates herein by reference, as though fully set forth herein, each of its responses to the above numbered Paragraphs 1-70.

72. Defendant discriminated against Mary Kate with respect to the terms and conditions of her employment in violation of the Nebraska Fair Employment Practice Act.

ANSWER: Defendant denies the allegations contained in Paragraph 72 of the Amended Complaint.

73. Mary Kate's sex was a motivating factor in the discrimination, harassment, and termination she experienced.

ANSWER: Defendant denies the allegations contained in Paragraph 73 of the Amended Complaint.

74. As a result of the Defendant's acts and omissions, Mary Kate has in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish; humiliation; embarrassment; lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

ANSWER: Defendant denies the allegations contained in Paragraph 74 of the Amended Complaint.

COUNT V
VIOLATION OF TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964
(RETALIATION)

75. Mary Kate incorporates Paragraphs 1 through 74 by this reference as if fully set forth.

ANSWER: Defendant incorporates herein by reference, as though fully set forth herein, each of its responses to the above numbered Paragraphs 1-74.

76. Mary Kate complained in good faith about Carson Group's treatment of the alleged victim of sexual assault at the conference, Carson Group's failure or refusal to put protective measures in place to prevent the alleged assailant from sexually assaulting others, and Carson Group's retaliation against her for the protected activity she engaged in by making such complaints.

ANSWER: Defendant denies the allegations contained in Paragraph 76 of the Amended Complaint.

77. Defendant retaliated against Mary Kate for complaining about and reporting its unlawful behavior by escalating its harassment of her and ultimately terminating her.

ANSWER: Defendant denies the allegations contained in Paragraph 77 of the Amended Complaint.

78. It is unlawful for an employer to discriminate against an employee for opposing any practice made an unlawful employment practice by Title VII of the Civil Rights Act of 1964.

ANSWER: The allegations contained in Paragraph 78 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant avers that Title VII is a written statute which speaks for itself.

79. Mary Kate's protected activity in opposing Defendant's unlawful behavior was one but-for cause of Defendant's retaliatory conduct against Mary Kate that resulted in the further harassment and discrimination that she experienced, culminating in her termination.

ANSWER: Defendant denies the allegations contained in Paragraph 79 of the Amended Complaint.

80. As a result of the Defendant's acts and omissions, Mary Kate has in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish; humiliation; embarrassment; lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

ANSWER: Defendant denies the allegations contained in Paragraph 80 of the Amended Complaint.

COUNT VI
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT
(DISABILITY DISCRIMINATION)

81. Mary Kate incorporates Paragraphs 1 through 80 by this reference as if fully set forth.

ANSWER: Defendant incorporates herein by reference, as though fully set forth herein, each of its responses to the above numbered Paragraphs 1-80.

82. Mary Kate suffers from one or more impairments that substantially limit her in one or more major life activities, has a record of suffering from one or more impairments that substantially limit her in one or more major life activities, and/or was regarded by Defendant as having a disability.

ANSWER: The allegations contained in Paragraph 82 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

83. Mary Kate was qualified to perform the essential functions of her job with Defendant with the reasonable accommodation of time off to attend medical appointments.

ANSWER: The allegations contained in Paragraph 83 of the Amended Complaint call for a legal conclusion, to which no response is required. To the extent a response is required, Defendant denies the same.

84. Defendant terminated Mary Kate because of her disability.

ANSWER: Defendant denies the allegations contained in Paragraph 84 of the Amended Complaint.

85. As a result of Defendant's acts and omissions, Mary Kate has in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish, humiliation, embarrassment; lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

ANSWER: Defendant denies the allegations contained in Paragraph 85 of the Amended Complaint.

DEFENDANT'S GENERAL DENIAL

To the extent not expressly admitted herein, Defendant denies all allegations and prayers for relief contained in the Amended Complaint.

DEFENDANT'S AFFIRMATIVE AND OTHER DEFENSES

Without assuming any burden of proof that by law is not otherwise Defendant's, Defendant asserts the following affirmative and other defenses:

1. Plaintiff's claims against Defendant may be barred by the applicable statute of limitations for any actions that occurred outside the relevant time frame, including, without

limitation, Plaintiff's allegations relating to her decision to voluntarily resign as CMO of Defendant and her subsequent decision to accept another role with Defendant.

2. Plaintiff's Complaint, in whole or in part, against Defendant may be barred to the extent she failed to exhaust her administrative remedies.

3. Plaintiff's claims are barred, in whole or in part, to the extent that they exceed the scope of or are inconsistent with the Charge and Amended Charge of Discrimination filed with the EEOC and NEOC.

4. Plaintiff's claims are barred because Defendant's actions were made in good faith and with reasonable grounds to believe its conduct was in full compliance with the relevant laws.

5. Plaintiff's claims are barred because even if an impermissible factor had been a motivating factor in any decision made or action taken by Defendant, which Defendant denies, Defendant would have taken the same actions in the absence of any impermissible factor.

6. Plaintiff's Complaint, in whole or in part, against Defendant is barred because the alleged actions of Defendant, which are denied, were not intentional, malicious, willful or reckless.

7. If Plaintiff has been damaged as alleged, which is denied, her damages have been caused by her own intentional or negligent acts or omissions, or by intentional or negligent acts or omissions of those other than Defendant, or for which Defendant is not responsible.

8. All alleged adverse actions during Plaintiff's employment occurred based on legitimate, non-discriminatory, and non-retaliatory reasons entirely unrelated to Plaintiff's gender, alleged disability, or any alleged protected activity.

9. Plaintiff's Complaint fails to state a cause of action upon which relief may be granted, as Plaintiff is not disabled as that term is defined in the Nebraska Fair Employment Practice Act and the ADA.

10. Plaintiff is not a qualified individual with a disability under the Nebraska Fair Employment Practice Act and Section 101(8) of the ADA.

11. Plaintiff's Complaint fails to state a cause of action upon which relief may be granted as Plaintiff failed to notify Defendant of the existence of a disability as that term is defined under the Nebraska Fair Employment Practice Act and the ADA.

12. Plaintiff is not otherwise qualified within the meaning of the Nebraska Fair Employment Practice Act and Section 102 of the ADA.

13. Plaintiff's Complaint fails to state a cause of action upon which relief may be granted in that Plaintiff's alleged disability could not be accommodated sufficiently to allow Plaintiff to perform the essential functions of her job.

14. Defendant has provided a reasonable accommodation to Plaintiff, but in spite of providing reasonable accommodation, Plaintiff could not perform the essential functions of the job satisfactorily.

15. Plaintiff cannot prove she engaged in any conduct "opposing any practice made unlawful" by the Nebraska Fair Employment Practice Act or Title VII.

16. Plaintiff has not engaged in any of the protected conduct described in the Nebraska Fair Employment Practice Act or Title VII.

17. There is no causal connection between protected conduct displayed by the Plaintiff and her alleged termination, and there is no evidence of animus by the Defendant against the Plaintiff for the exercise of any right protected by the Nebraska Fair Employment Practice Act or Title VII.

18. Plaintiff cannot establish that her alleged protected activity was the "but-for" reason for any alleged adverse employment action.

19. Plaintiff's demand for liquidated damages is inappropriate as liquidated damages are not a recoverable damage under the causes of action pled by Plaintiff in the Amended Complaint.

20. Defendant avers that any award of punitive damages to Plaintiff in this case would be in violation of the constitutional safeguards provided to Defendant under the Constitution of the United States of America.

21. An award of punitive damages is not proper in this case because Plaintiff cannot show that Defendant intended to cause injury to Plaintiff or otherwise acted with reckless or wanton disregard for Plaintiff's rights.

22. To the extent Plaintiff engaged in wrongdoing of such severity that Plaintiff, in fact, would have been terminated on those grounds alone if Defendant had known of the wrongdoing at the time of the wrongdoing, Defendant is not liable for reinstatement, front pay, or back pay after the date on which Defendant discovered the misconduct and would have terminated Plaintiff for that misconduct.

23. To the extent any unlawful conduct is found to have been committed by any agent of Defendant, Defendant should not be held liable because the conduct was outside the scope of the agent's employment, and the agent did not act with express or implied authority, and Defendant did not ratify or approve any unlawful conduct.

24. Plaintiff is not entitled to a jury trial on any equitable claims or equitable relief asserted in the Amended Complaint.

25. Plaintiff is barred from pursuing some, or all, of her claims or remedies by the doctrine of laches and/or unclean hands, and by unreasonably delaying her assertion of claims to the disadvantage and prejudice of Defendant.

26. Defendant is not liable for punitive damages because neither Defendant, nor any of its employees sufficiently high in its corporate hierarchy, committed any act with malice, intent, willfulness, or reckless indifference to Plaintiff's protected rights, or approved, authorized or ratified, or had actual knowledge, of any such acts.

27. Plaintiff's Complaint fails to allege facts sufficient to state a claim that would support an award of actual, compensatory, or punitive damages against Defendant.

28. Plaintiff's Complaint fails to state a proper claim for compensatory or punitive damages as all of Defendant's challenged actions were the product of good faith efforts as defined under the Nebraska Fair Employment Practice Act and in Title VII.

29. Defendant is not liable for punitive damages because it has at all times made a good faith effort to comply with the laws, has complied with all applicable laws to the best of its knowledge and belief, and any action by a manager contrary to these efforts is in violation of Defendant's policies and procedures.

30. Defendant is not liable for punitive damages because its alleged conduct was not outrageous and its actions and/or conduct were not intentional, taken with evil motive, or in reckless indifference to the rights of others.

31. The actions taken by Defendant with respect to Plaintiff were within the business judgment of Defendant.

32. Plaintiff is not entitled to a back or front pay award because Plaintiff has suffered no economic damage and/or because she engaged in misconduct, including the intentional and unauthorized access of restricted electronic platforms containing Defendant's confidential marketing and business information following her separation that had she still been employed, would have resulted in her termination.

33. Defendant states that the standard used to determine the amount of such damages as emotional distress damages, if any, is vague and overly arbitrary, and, as such, supplies no notice of potential repercussions of the alleged misconduct, thereby denying Defendant due process under the Fifth and Fourteenth Amendments to the United States Constitution, as well as under the Nebraska Constitution. Defendant also affirmatively asserts that any request for arbitrary emotional distress damages and/or subsequent impositions of such damages violates its rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

34. Without conceding that Plaintiff has suffered any damages as a result of any alleged wrongdoing by Defendant, Plaintiff has failed to mitigate her claimed damages. To the extent Plaintiff has mitigated her damages, Defendant is entitled to offset those amounts she has earned.

35. Defendant reserves the right to supplement and amend its affirmative and other defenses as warranted by the facts of the case, including but not limited to any after acquired evidence defense. Defendant affirmatively states that it will rely upon each and every affirmative defense or other avoidance provided by the Federal Rules of Civil Procedure or state law that may become known during the course of litigation, including discovery, trial, or otherwise.

WHEREFORE, Defendant requests that the Court dismiss Plaintiff's Amended Complaint with prejudice, enter judgment in Defendant's favor, award Defendant its attorney's fees and costs, and for any further relief the Court deems just and proper.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

By: /s/ Kerri S. Reisdorff
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May 2024, the foregoing was electronically filed with the Court Administrator and service was made through the electronic filing system to:

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ATTORNEYS FOR PLAINTIFF

/s/ Kerri S. Reisdorff
ATTORNEY FOR DEFENDANT