

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

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Jennifer Carnahan,

Court File No.: \_\_\_\_\_

Plaintiff/Counterclaim-Defendant,

v.

**AMENDED ANSWER AND  
COUNTERCLAIM**

Republican Party of Minnesota,

**JURY TRIAL DEMANDED**

Defendant/Counterclaim-Plaintiff.

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Plaintiff Jennifer Carnahan grossly mismanaged the Republican Party of Minnesota (“RPM”) by advancing her own interests at the expense of RPM. Carnahan’s purported claims in this lawsuit are the direct result of, and are barred by, her own violations of the law. As a result, RPM asserts counterclaims in its own defense and to recover the substantial damages caused by Carnahan’s unlawful acts.

**ANSWER**

Defendant, the Republican Party of Minnesota (“Defendant”), by and through counsel, generally deny each and every allegation and each and every cause of action in Plaintiff Jennifer Carnahan’s Complaint and answer the Complaint by in like-numbered paragraphs as follows:

1. Paragraph 1 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.
2. Defendant denies that the Republican Party of Minnesota (“RPM”) is a Minnesota nonprofit corporation, but admits that its principal place of business is in Hennepin County, State of Minnesota.
3. Defendant admits Plaintiff is the former Chairwoman of the RPM.

4. Defendant admits Plaintiff was elected as Chairwoman of the RPM on April 29, 2017, April 27, 2019, and April 10, 2021.

5. Paragraph 5 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

6. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 6, therefore, Defendant denies each and every allegation contained therein.

7. Paragraph 7 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

8. Defendant admits that Plaintiff was voted as Chairwoman to the RPM on April 29, 2017. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 8 and therefore denies each and every remaining allegation.

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9, therefore, Defendant denies each and every allegation contained therein.

10. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10, therefore, Defendant denies each and every allegation contained therein.

11. Paragraph 11 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

12. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 12, therefore, Defendant denies each and every allegation contained therein.

13. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13, therefore, Defendant denies each and every allegation contained therein.

14. Paragraph 14 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

15. Paragraph 15 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

16. Paragraph 16 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

17. Paragraph 17 contains only conclusions and assertions for which no response is required. To the extent that any response is required, Defendant denies the allegations.

18. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 18, therefore, Defendant denies each and every allegation contained therein.

19. Defendant lacks knowledge or information sufficient to form a belief regarding subjective viewpoints of persons named in paragraph 19, therefore, Defendant denies each and every allegation contained therein.

20. Defendant admits Ms. Carnahan was elected as Chairwoman in 2021. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 20, and therefore denies each and every remaining allegation.

21. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 21, therefore, Defendant denies each and every allegation contained therein.

22. Defendant admits that a Republican donor from Minnesota closely connected to Plaintiff became involved in a criminal investigation.

23. Defendant denies the allegations in paragraph 23.

24. Defendant denies the allegations in paragraph 24.

25. Defendant denies the allegations in paragraph 25.

26. Defendant admits Ms. Carnahan stepped down from her role as Chairwoman. Defendant states that the remaining allegations are legal conclusions, to which no response is required. To the extent a response is required, Defendant denies any remaining allegations in paragraph 26.

27. Defendant states that the allegations of paragraph 27 are legal conclusions, to which no response is required. To the extent a response is required, Defendant denies the allegations in paragraph 27

28. Defendant denies the allegations in paragraph 28.

29. Defendant denies the allegations in paragraph 29.

30. Defendant denies the allegations in paragraph 30.

31. Defendant denies the allegations in paragraph 31.

a. Defendant admits that Pascoe gave an interview with Benjamin Kruse on his “Up and at ‘Em” podcast. Defendant denies remaining allegations in paragraph 31.

i. Defendant denies the allegations in paragraph 31(a)(i).

ii. Defendant denies the allegations in paragraph 31(a)(ii).

- iii. Defendant denies the allegations in paragraph 31(a)(iii).
  - b. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 31(b), therefore, Defendant denies each and every allegation contained therein.
  - c. Defendant admits the RPM held an informational meeting on August 30, 2021. Defendant denies remaining allegations in paragraph 31(c).
    - i. Defendant denies allegations in paragraph 31(c)(i).
    - ii. Defendant denies allegations in paragraph 31(c)(ii).
  - d. Defendant denies allegations in paragraph 31(d).
32. Defendant denies allegations in paragraph 32.
33. Defendant denies allegations in paragraph 33.
34. Defendant denies allegations in paragraph 34.
35. Defendant denies allegations in paragraph 35.
36. Defendant denies allegations in paragraph 36.
37. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 37, therefore, Defendant denies each and every allegation contained therein.
38. Defendant restates all preceding responses.
39. Defendant denies the allegations in paragraph 39.
40. Defendant denies allegations in paragraph 40.
41. Defendant states that the allegations of paragraph 41 are legal conclusions, to which no response is required. To the extent a response is required, Defendant denies the allegations in paragraph 41.

42. Defendant denies allegations in paragraph 42.
43. Defendant denies allegations in paragraph 43.
44. Defendant denies allegations in paragraph 44.
45. Defendant denies all allegations in the Complaint not expressly admitted in the foregoing paragraphs of this Answer.

### **AFFIRMATIVE DEFENSES**

1. The Complaint fails, in whole or in part, to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.
3. Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel or equitable estoppel.
4. Plaintiff's claims are barred by her own unlawful acts and policy violations.
5. Plaintiff's claims are barred by public policy, qualified privilege, or other law.
6. Plaintiff's claims are barred by fraud.
7. Plaintiff's claims are barred by waiver.
8. Plaintiff's claims are barred in whole or in part by, or limited by, the requirement of mitigation of damages.
9. Plaintiff's claims are barred by her own acts and her own breaches of contract.
10. Republican Party of Minnesota reserves the right to assert such additional defenses as may become apparent through discovery or trial.

### **PRAYER FOR RELIEF**

WHEREFORE, Defendant Republican Party of Minnesota respectfully requests the Court to grant the following relief:

- A. That the Complaint be dismissed with prejudice;
- B. That Plaintiff be ordered to pay Republican Party of Minnesota's costs and disbursements incurred in this action, including Republican Party of Minnesota's attorneys' fees to the extent permitted by law; and
- C. That the Court award Republican Party of Minnesota such other and further relief as the Court may deem just and appropriate.

### **COUNTERCLAIM**

1. As Chair of the Republican Party of Minnesota ("RPM"), Jennifer Carnahan was entrusted to steward one of Minnesota's two major political parties. Rather than seeking to carefully advance the interest of this vital institution, Carnahan recklessly pursued her own interests. Throughout her tenure as RPM Chair, Carnahan mismanaged the party to advance her own personal, political, and financial interests, as well as the interests of her friends. When her close personal relationship with Tony Lazzaro brought disrepute to the RPM following his arrest on federal charges relating to sex trafficking of minors, numerous other concerns with her mismanagement of the party came to light, including her penchant for using party resources to purchase the silence of former party staffers through non-disclosure agreements.

2. Even after it was clear she would be removed as RPM's Chair, Carnahan continued to abuse her position of trust and responsibility for her own personal benefit. As her final act as RPM Chair, Carnahan voted to directly advance her own personal interests, casting

the *deciding vote* as a member of the Executive Committee to award *herself* a severance payment of \$38,500. Carnahan then resigned her position as Chair.

3. Carnahan knew that the Executive Committee had not discussed, let alone voted to authorize any non-disparagement agreement with Carnahan. Yet, Carnahan orchestrated the drafting of such an agreement, which was purportedly signed on behalf of RPM by the Interim Chair. Carnahan was aware that the Interim Chair had no authority to execute a nondisparagement agreement. Despite her knowledge that no agreement was validly authorized, Carnahan threatened to sue, and ultimately brought suit, based on RPM's alleged violations of this purported agreement.

4. At every step of the process, Carnahan has violated her legal duties to RPM, culminating in this frivolous lawsuit. RPM is now forced to assert its legal rights, and is entitled to monetary damages as well as declaratory and other relief, as set forth herein.

### **PARTIES**

5. Counterclaim-Plaintiff RPM is an unincorporated association with its principal place of business in Hennepin County. RPM is the statewide organization of the Republican Party, a major party as defined by Minn. Stat. § 200.02, subd. 7.

6. As a major state party committee, RPM occupies a special place in Minnesota's election system. Its purpose is to advance the interests and manage the business of the Republican Party throughout the state of Minnesota, including by developing and promoting the party's principles and platform; supporting Republican candidates for office at all levels of government; mobilizing and educating voters; and raising funds to support the Republican Party's operations and political campaigns.



7. Counterclaim-Defendant Jennifer Carnahan is a resident of the State of Minnesota. Within the past year, she has claimed at various times to reside in Hennepin County, Faribault County, and Crow Wing County.

## **BACKGROUND**

### ***Responsibilities, duties, and limits of RPM Chair***

8. RPM is governed by its Constitution and Bylaws. These governing documents organize RPM as an institution and authorize and bind its leadership, including its State Central Committee and its Executive Committee.

9. The RPM Constitution vests the “general management of the affairs of the Party in the state” in the State Central Committee (Art. IX, § 1(A)), and empowers the State Central Committee to enact “such bylaws as are deemed necessary for the transaction of the business of the party” which “shall contain the specific delegation and division of responsibilities and duties among the various department of the state organization” (Art. XV, § 3).

10. RPM’s State Central Committee is composed of members of the State Executive Committee, party chairs from each of Minnesota’s Congressional Districts, delegates from these Congressional Districts, and Republican elected to state and to federal offices. The

11. The RPM Chair is the party’s chief executive officer, entrusted with authority and responsibility to steward the operations of the party. The Chair is RPM’s executive leader responsible for actively managing RPM on a day-to-day basis.

12. RPM’s Bylaws provide that “[t]he Chair shall have general supervision and management over the affairs of the Party and over other officers and shall perform all such other duties as are incidental to the office.” (Art. IV, § 3.)

13. Because of this position of responsibility and trust, the RPM chair owes fiduciary duties to RPM. *See, e.g., Toombs v. Daniels*, 361 N.W.2d 801, 809 (Minn. 1985) (“A fiduciary relationship exists when confidence is reposed on one side and there is resulting superiority and influence on the other.”) (internal quotations omitted); *Carlson v. SALA Architects, Inc.*, 732 N.W.2d 324, 330 (Minn. Ct. App. 2007) (“A fiduciary relationship is characterized by a “fiduciary” who enjoys a superior position in terms of knowledge and authority and in whom the other party places a high level of trust and confidence.”). As a fiduciary, Carnahan owed the highest duties of care, loyalty, and full disclosure to RPM while she was serving as RPM Chair. *See, e.g., Com. Assocs., Inc. v. Work Connection, Inc.*, 712 N.W.2d 772, 779 (Minn. Ct. App. 2006) (“Minnesota law imposes on a fiduciary the highest obligation of good faith, loyalty, fidelity, fair dealing, and full disclosure of material matters affecting the client's interests.”); *Shepherd of the Valley Lutheran Church of Hastings v. Hope Lutheran Church of Hastings*, 626 N.W.2d 436, 442 (Minn. Ct. App. 2001) (“An officer of a nonprofit corporation owes a fiduciary duty to that corporation to act in good faith, with honesty in fact, with loyalty, in the best interests of the corporation, and with the care of an ordinary, prudent person under similar circumstances.”).

14. The Chair’s powers are not unlimited. RPM’s Constitution and Bylaws vest authority over certain issues, including the removal of the Chair, with RPM’s State Executive Committee (“Executive Committee”).

15. The Executive Committee is composed of the Chair and RPM’s Deputy Chair, Secretary, Treasurer, National Committeeman, National Committeewoman, a chair or representative from each of Minnesota’s Congressional Districts, and the party’s state finance chair.

16. RPM's Bylaws limit the power of the Chair to enter into contracts. "All contracts obligating the State Party ... must be signed by both the Chair and the Treasurer." In addition, the Bylaws also require that certain types of contracts must be first reviewed and approved by a majority vote of the Executive Committee before the Chair and the Treasurer may sign the contract, including:

- a. "Any contract that is likely to obligate the Party to an amount greater than \$5,000.00 during any calendar year . . . and that does not fall within the applicable annual budget passed by the State Executive Committee;" and
- b. "[a]ny contract with a term longer than one year."

***Carnahan's close personal relationship and undisclosed concerns about Lazzaro related to sex trafficking and other criminal or immoral behavior***

17. Carnahan was first elected Chair in 2017, following an unsuccessful run for state Senate in Minneapolis in 2016.

18. During her 2016 campaign, Carnahan met Lazzaro. Carnahan and Lazzaro became personal friends and political allies. In 2018, Lazzaro was an invited guest at Carnahan's wedding in California to the late U.S. Representative Jim Hagedorn.

19. In 2019 and 2020, Carnahan and Lazzaro co-hosted a political podcast, titled "#TruthMatters."

20. Lazzaro sought to project a personal image of a flashy, high-rolling businessman or celebrity, posting photos on social media of himself sitting atop a private jet, holding wads of cash, and shipping his Ferrari convertible to California.

21. An element of Lazzaro's cultivated image was access to prominent politicians and political events. Through his relationship with Carnahan, Lazzaro was able to obtain (and showcase) access to RPM and Republican campaigns.

22. On information and belief, Lazzaro personally bankrolled Carnahan's election campaigns for Chair.

23. Disclosure of financing of political party officer elections is not required by law or RPM's rules.

24. Carnahan has been asked and has refused to answer whether or to what extent her campaigns for RPM Chair were funded by Lazzaro.

25. Over the course of her relationship with Lazzaro, Carnahan knew, had reason to know, or should have known that Lazzaro was involved in one or more activities that would or were likely to cause damage to RPM's reputation and would or would likely cause harm to the election of Republican candidates in Minnesota.

26. For example, one of the many former RPM executive directors hired (and then forced out) by Carnahan attested to comments she made about her knowledge of Lazzaro's questionable personal "lifestyle."

27. On information and belief, Carnahan had knowledge of investigation(s) into Lazzaro's immoral and illegal activities before such investigations were reported publicly in or about August 2021.

28. Despite her knowledge, Carnahan did not disclose any concerns about Lazzaro to RPM's Executive Committee, and she took no action to distance RPM from Lazzaro prior to his arrest on federal sex trafficking charges.

29. On August 12, 2021, Lazzaro was arrested on federal charges related to alleged sex trafficking of minors.

30. Both before and after Lazzaro's arrest, Carnahan has allowed her name and image to be associated with Lazzaro.

31. The image below remains posted on websites associated with Carnahan and Lazzaro's joint podcast.



32. Carnahan advertised (and continues to advertise) this joint podcast with the following text: “Chair of the MNGOP, Jennifer Carnahan, is here to talk everything going on with the Republican Party of Minnesota and what really matters, the truth.”

33. Carnahan appeared at public events with Lazzaro, including as shown below:



34. Following Lazzaro's arrest, RPM suffered immense reputational, operational, and financial damage because of the close relationship Carnahan attempted to forge between the party and Lazzaro. As one illustrative example, a national online political media outlet ran a lengthy story under the headline “Minnesota GOP ‘in ruins’ after shocking scandal.”

***Carnahan's toxic work environment and repeated abuse of her power***

35. After Lazzaro's arrest raised questions about his close personal and political relationship with Carnahan, numerous facts were revealed about the toxic work environment and gross mismanagement perpetuated by Carnahan at the Party.

36. Throughout Carnahan's tenure as Chair, RPM suffered from unusually high turnover among its staff. For example, during the two-year period from mid-2019 to mid-2021, RPM had *four different Executive Directors*, the most senior staff position at the party. This staff turnover was the direct result of Carnahan's mistreatment of staff and hampered the party's effectiveness.

37. Members of the Executive Committee learned that Carnahan had bullied former employees into silence about their working conditions and had leveraged party resources to protect her own position and wrongdoing through severance and nondisclosure agreements ("NDAs"). After she forced employees to leave, Carnahan used NDAs to protect her own interests by paying severance if former employees kept her wrongdoing confidential and agreed not to disparage Carnahan.

38. Upon learning of this pattern, the Executive Committee, at a meeting on August 15, 2021, adopted a resolution through which the party "waive[d] its rights under any non-disclosure agreement, non-disparagement agreement, termination contract, or any other legal agreement or provision that may prevent past or present staff, board members, consultants, or volunteers from sharing information that may harm the RPM." Carnahan abstained from the vote on this resolution related to her abuse because of her personal conflict of interest.

***Prior to resigning, Carnahan leverages her position one last time for her own personal benefit***

39. In the week after Lazzaro's arrest, it became clear that Carnahan's ability to continue to serve as RPM Chair was untenable. Nevertheless, for several days, Carnahan continued to put herself first, insisting that she was being unfairly criticized and refusing to resign, despite calls from all corners of the party, including multiple former staffers that had been freed from their NDAs.

40. By August 19, 2021, Carnahan was planning to abuse her position one last time, for her own personal benefit. In an effort to silence her critics, Carnahan unilaterally directed party staff to procure a draft NDA from an attorney, and reviewed the draft NDA at RPM's offices that day.

41. The Executive Committee held a meeting in the evening of August 19, beginning shortly after 6:30 p.m. The discussion in the meeting quickly turned to efforts to induce Carnahan to resign by offering her a severance package. During this discussion, the Committee debated whether, and what amount, of severance payment RPM would offer Carnahan in exchange for her resignation.

42. During the August 19 Executive Committee meeting, Carnahan knew that she had a conflict of interest in regard to any vote of the Executive Committee related to whether RPM would pay her severance and, if so, what amount of severance RPM would pay.

43. During more than two hours of Committee debate, Carnahan abstained from three votes related to whether RPM would pay her severance and, if so, what amount of severance RPM would pay.

44. At the end of the Executive Committee's debate, it held a final vote "to offer a severance package to ... Carnahan of 3 months' salary: \$38,150 (including payroll taxes)." On

an oral roll call vote, all members other than Carnahan cast their votes. Seven members voted against the motion, and seven voted for it.

45. Because a majority vote of the Executive Committee was required to approve a severance payment to her, Carnahan would not receive severance in the event of a tie.

46. Ignoring the conflict of interest she recognized earlier in the same meeting, Carnahan then voted to advance her personal interests at the expense of RPM by casting the deciding vote to award herself a severance payment. With her personal financial benefit secured, she verbally resigned as Chair.

47. On August 19, the Executive Committee was not asked to approve any NDA with Carnahan. Committee members were not advised of Carnahan's efforts earlier that day to use party resources to prepare an NDA for her.

48. Carnahan understood from the Executive Committee's vote waiving staff NDAs the previous week, that its members would not have approved an NDA for Carnahan.

49. Nevertheless, Carnahan, on behalf of herself, and RPM's then-Interim Chair (the Deputy Chair before Carnahan's resignation) apparently signed a document entitled "Separation Agreement, Waiver and Release" on or about August 20, 2021 (the "Purported NDA"). From its introductory language, it appears that the Purported NDA was drafted prior to Carnahan's resignation. On information and belief, the Purported NDA was procured by Carnahan using party staff and party resources.

50. On August 20, 2021, Carnahan was familiar with the requirements of RPM's Bylaws.

51. The language of the Purported NDA stated that the party's "management employees, Officer, and Executive Board Members" would be obligated not to "disparage or



defame” Carnahan “in any respect.” The Purported NDA had no expiration date, so presumably this obligation was designed to continue as long as RPM existed. The language of the Purported NDA stated that Carnahan agreed not to “disparage or defame” RPM “in any respect.”

52. Neither the Interim Chair nor Carnahan informed the Executive Committee that they had signed the Purported NDA. Executive Committee members and other individuals who the agreement’s language purported to bind were unaware of any purported obligations under the Purported NDA.

***Carnahan’s Failed Congressional Campaign and Disparagement of RPM***

53. On February 17, 2022, Carnahan’s husband, U.S. Representative Jim Hagedorn, passed away. As a result, a special election was declared for Minnesota’s First Congressional District.

54. On March 16, 2022, Carnahan declared her candidacy for Representative Hagedorn’s former office, asserting that her husband had encouraged her to run for the seat before his passing.

55. On April 23, 2022, a Republican convention was held in Mankato to consider endorsing a candidate ahead of the May 24 special primary election. After the convention ended without an endorsement, Carnahan issued a press statement lambasting, among others, the “embarrassing behavior” of a senior RPM staffer (who had previously worked under Carnahan) for “unethically using party resources to aid my opponents, as well as ... attempting to harass, bully and intimidate me for terminating him last summer following similar disgraceful behavior.”

56. Carnahan’s candidacy ended following the May 24, 2022, special primary election, in which she finished a distant third place.

57. Despite her receipt of the severance payment and her own disparagement of the RPM in violation of the language of the Purported NDA, Carnahan has repeatedly demanded additional payments from RPM. When it refused, Carnahan served the instant suit attempting to enforce the Purported NDA.

58. During her tenure as Chair, Carnahan had access to a computer and smartphone owned by RPM, as well as proprietary and confidential data owned by the party on those devices. After she resigned, Carnahan did not return RPM's property and instead converted it to her own personal use.

### **COUNT I** **Declaratory Judgment**

59. Counterclaim-Plaintiff restates and realleges all preceding paragraphs as if set forth fully herein.

60. Carnahan was familiar with RPM's Bylaws.

61. When she signed it, Carnahan knew that the Purported NDA was never authorized by the Executive Committee even though it was intended to be a contract that both: (a) had a longer duration (perpetual) than 1 year; and (b) was intended to obligate RPM to pay more than \$5,000.

62. When she signed it, Carnahan knew that the Purported NDA was never validly signed by the RPM because it was not signed by both the Chair and the Treasurer.

63. When she signed the Purported NDA, Carnahan knew that the Interim Chair, who apparently signed the Purported NDA, did not have actual authority to bind the RPM to the Purported NDA.

64. RPM is not bound by any obligations of the Purported NDA because no binding contract was ever formed between Carnahan and RPM.

65. The Purported NDA is not a valid contract and does not bind RPM.

66. Pursuant to Minn. Stat. § 555.01, RPM is entitled to declaratory judgment as to the allegations and legal conclusions set forth in paragraphs 60-65.

**COUNT II**  
**Breach of Fiduciary Duty**  
**(Duty of Loyalty)**

67. Counterclaim-Plaintiff restates and realleges all preceding paragraphs as if set forth fully herein.

68. As Chair, Carnahan held a position of trust and confidence as the executive leader actively managing RPM.

69. Pursuant to Minnesota law, as Chair, Carnahan owed a duty of loyalty to RPM.

70. Pursuant to RPM's Constitution and Bylaws, as Chair, Carnahan owed a duty of loyalty to RPM.

71. Carnahan breached her duty of loyalty by misusing party resources to further her own personal interests, including by: (a) using party funds to procure NDAs from employees she had subjected to abuse and a toxic work environment in order to protect her personal and political interests; (b) using party resources to draft and procure the non-disparagement provisions in the Purported NDA; and (c) casting the tie-breaking vote in favor of her own severance payment.

72. Carnahan's breaches of her fiduciary duties proximately caused damages to RPM, including: (a) the severance payments paid to former employees to buy their silence; (b) the severance payment received by Carnahan; and (c) the costs of defending against this frivolous suit brought by Carnahan to enforce the Purported NDA.

**COUNT III**  
**Breach of Fiduciary Duty**  
**(Duty of Care, Candor, and Disclosure)**

73. Counterclaim-Plaintiff restates and realleges all preceding paragraphs as if set forth fully herein.

74. As Chair, Carnahan held a position of trust and confidence as the executive leader actively managing RPM.

75. Pursuant to Minnesota law, as Chair, Carnahan owed duties of care, candor, and disclosure to RPM.

76. Pursuant to RPM's Constitution and Bylaws, as Chair, Carnahan owed duties of care, candor, and disclosure to RPM.

77. Carnahan breached her duties of care and full disclosure by ignoring and concealing her knowledge of Lazzaro's personal life, actions, and wrongdoing that she knew or should have known would be damaging to RPM.

78. As a proximate cause of Carnahan's breaches of her fiduciary duties, RPM suffered significant reputational, operational, and financial damage, in an amount to be proven at trial.

**COUNT IV**  
**Conversion**

79. Counterclaim-Plaintiff restates and realleges all preceding paragraphs as if set forth fully herein.

80. RPM has a property interest in certain personal property currently in Carnahan's possession, including a computer and smartphone purchased by RPM, as well as proprietary and confidential data owned by the party on those devices

81. Carnahan has willfully deprived RPM of its property interest, without lawful justification.

82. As a proximate cause of Carnahan's conversion, RPM suffered operational and financial damage in an amount to be proven at trial.

**COUNT V**  
**Civil Theft**

83. Counterclaim-Plaintiff restates and realleges all preceding paragraphs as if set forth fully herein.

84. RPM purchased and owns certain personal property currently in Carnahan's possession, including a computer and smartphone purchased by RPM, as well as proprietary and confidential data owned by the party on those devices.

85. Carnahan is liable for civil theft of that property pursuant to Minn. Stat. § 604.14.

86. As a proximate cause of Carnahan's civil theft, RPM suffered operational and financial damage in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Counterclaim-Plaintiff RPM respectfully requests that the Court enter judgment as follows:

- A. Declaring that:
  - i. The Purported NDA is not valid and is unenforceable;
  - ii. Carnahan breached her duty of loyalty to RPM;
  - iii. Carnahan breached her duty of care to RPM; and
  - iv. Carnahan breached her duty of full disclosure to RPM; and
  - v. Carnahan is liable for conversion and/or civil theft.

B. Awarding RPM damages in an amount to be determined at trial, as well as costs and attorneys' fees; and

C. Ordering such other and further relief as the Court deems equitable, just, and proper.

Dated: November 11, 2022

**CROSSCASTLE PLLC**

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**ATTORNEYS FOR DEFENDANT/  
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REPUBLICAN PARTY OF MINNESOTA**

## **ACKNOWLEDGEMENT**

The undersigned hereby acknowledges that sanctions may be awarded pursuant to  
Minn. Stat. § 549.211.

*s/ Samuel W. Diehl*  
Samuel W. Diehl (#388371)