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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

JUSTINA THORESON, and LAURIE  
BRANCH, individuals,

Plaintiffs,

vs.

EASTSIDE DISTILLING, INC. a foreign  
corporation, GROVER WICKERSHAM,  
ARMAIN AUSTIN, ROBERT  
MANFREDONIA, and AMY  
BRASSARD, individuals,

Defendants.

Case No. 19CV45716

**DEFENDANT GROVER  
WICKERSHAM’S ANSWER AND  
AFFIRMATIVE DEFENSES**

**REQUEST FOR JURY TRIAL**

Amount In Controversy: \$560,000  
Fee Authority: 21.160(1)(c)  
Filing Fee: Previously paid

Defendant Grover Wickersham (“Mr. Wickersham”) answers plaintiffs’ complaint as to the allegations against him, and no other defendants, as follows:

**INTRODUCTION**

1.

Mr. Wickersham, now 71 years old, is far from the plaintiffs’ cynical portrayal of a “me too” executive. Mr. Wickersham was a positive force for the advancement of women during his time at Eastside Distilling, to the personal career benefit of the plaintiffs and many other women he hired and/or advanced. He is the opposite of the stereotypical “me too” executive and plaintiffs know it. Mr. Wickersham is a socially responsible former journalist. He was trained as a legal and business specialist at Harvard and the University of California, and honorably served in investor protection at the Securities and Exchange Commission, being promoted to Branch Chief for his service. His record in private practice was spotless and he was asked to serve in California State Bar leadership roles. When he

1 became CEO at Eastside, it was insolvent. Under his leadership, sales multiplied more than  
2 fivefold, working capital increased to \$18 million, the share price increased dramatically,  
3 and opportunities opened up for the plaintiffs and other women. At no time has Mr.  
4 Wickersham tolerated or condoned discriminatory behavior against women. He values  
5 people for who they are and what they do, and abhors the conduct alleged in plaintiffs’  
6 complaint. Above all, he is happily married and the Dad of two young adult daughters  
7 whose own welfare he cares about deeply.

8 2.

9 Before any efforts were made to serve Mr. Wickersham with a summons and  
10 complaint in this matter, plaintiffs reached out to the press in order to, upon information  
11 and belief, exert pressure on him to pay plaintiffs money for claims that had no merit. In  
12 doing so, they were loose and lurid with the facts they alleged about Mr. Wickersham. The  
13 plaintiffs’ sensationalistic picture of Mr. Wickersham as a CEO who devalues women was  
14 calculated to get press in Portland, and it did. But plaintiffs’ tale conveniently failed to  
15 mention that under CEO Wickersham’s leadership they were hired to high paying  
16 positions, promoted and bonused, and that contrary to their complaint, an entirely different  
17 CEO fired them after Mr. Wickersham had long since been out of company management.

18 3.

19 Sensationalistic articles in Willamette Week and Eater that ran before any effort  
20 was made to serve Mr. Wickersham with a summons and complaint presented a confusing  
21 and factually inaccurate story that falsely smeared Mr. Wickersham as “then CEO” for  
22 time periods when it was public record that he definitively was not CEO. Although the  
23 latter article stated that Plaintiff’s “attorney (Taylor) Duty is demanding a jury trial for the  
24 case as opposed to settling out of the Court,” no credible effort was ever made to advance  
25 the claims against Mr. Wickersham towards a public trial where the truth would come out  
26 about plaintiffs’ smearing of Mr. Wickersham.

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4.

Mr. Wickersham is justifiably proud of the fact that he has actively recruited and promoted women, including the plaintiffs. Indeed, one of Mr. Wickersham’s first acts during his first week as CEO was to promote a woman to the senior role of Executive Vice President of Operations, the highest operational role in the company. Ironically, Ms. Thoreson herself was repeatedly promoted and bonused by Mr. Wickersham, even including substantial childcare benefits on his initiative that she had not requested. Mr. Wickersham further authorized hiring her friend, Ms. Branch, at Eastside Distilling on Ms. Thoreson’s recommendation. Truly, where the plaintiffs are concerned no good turn goes unpunished.

5.

In smearing Mr. Wickersham, Plaintiffs reach far to make unsupportable claims, such as that Mr. Wickersham “prefers to work with men.” His history at Eastside defies that assertion, and so does his history long before Eastside. For example, in his law practice, Mr. Wickersham’s law partner, and most of the lawyers and managers, were women. Ultimately, plaintiffs allegations against Mr. Wickersham in this lawsuit – cynically calculated to get the publicity they got – are simply false.

**ANSWER TO COMPLAINT**

6.

Paragraph 1 contains introductory comments that do not require an answer. To the extent paragraph 1 alleges fact requiring answer, they are denied.

7.

Answering paragraph 2, Mr. Wickersham admits plaintiffs allege events allegedly occurring in the state of Oregon, but denies the merit of such allegations against him.

8.

Answering paragraph 3, Mr. Wickersham admits he has a residence in Multnomah County.

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9.

Answering paragraphs 4 and 5, Mr. Wickersham lacks sufficient information to admit or deny the residency of plaintiffs and so denies the same. Mr. Wickersham admits plaintiffs were previously employed by Eastside Distilling, Inc.

10.

The allegations in paragraphs 6, 8-10, 14, 16-17, 23-27, and 29-49 do not contain allegations against Mr. Wickersham and do not require answer by Mr. Wickersham. To the extent these paragraphs contain factual allegations against Mr. Wickersham, they are denied.

11.

Answering paragraph 7, Mr. Wickersham admits he has a residence in Multnomah County. Mr. Wickersham denies he “was at all material times the CEO of Eastside Distilling,” as alleged by plaintiffs, and further alleges that plaintiffs were fully aware that he was not the CEO of the company at material times alleged in their complaint, and that plaintiffs were aware of the fact that he was not CEO when they filed their complaint falsely alleging otherwise.

12.

Answering paragraphs 11 through 13, Mr. Wickersham admits plaintiffs were previously employed by Eastside Distilling and held multiple job titles. In the case of Ms. Thoreson, Mr. Wickersham promoted and increased Ms. Thoreson’s salary in the first month that he became CEO, as well as awarding her very valuable stock options and Restricted Stock Units.

13.

Answering paragraph 15, Mr. Wickersham admits he was CEO of Eastside Distilling from 2016 until May 10, 2019.

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14.

Answering paragraph 18, Mr. Wickersham admits that he authorized awarding plaintiffs stock and options to purchase stock in Eastside Distilling, Inc. He did so because contrary to the plaintiff's assertions, he valued plaintiffs' professional work, like that of others, regardless of their gender.

15.

Answering paragraph 19, Mr. Wickersham admits he was CEO of Eastside Distilling beginning in 2016. Mr. Wickersham adamantly denies that he made derogatory and inappropriate comments to plaintiffs or other female employee of Eastside Distilling related to their sex.

16.

Answering paragraph 20, Mr. Wickersham denies that plaintiffs observed him inebriated at a 2017 holiday dinner for Eastside employees and their families, and denies he engaged in any inappropriate behavior or made inappropriate comments at the event. Existing video of Mr. Wickersham speaking publicly at the event shows him to be sober and professional in his demeanor. Moreover, Mr. Wickersham attended the event with his wife, daughters and colleagues, with whom he sat with most of the evening, and they would testify to his demeanor.

17.

Answering paragraph 21, Mr. Wickersham admits he learned plaintiff Thoreson was pregnant with her second child sometime during 2018. Mr. Wickersham denies he required Thoreson to change her position because she was pregnant or otherwise treated her adversely because she was pregnant. To the contrary, when Mr. Wickersham first met Thoreson in late 2016 at a weekend lunch meeting, he encouraged her to bring her first child with her because she did not have child care. Indeed, attached as Exhibit A is a picture of Mr. Wickersham and the child taken by Ms. Thoreson. Moreover, Mr. Wickersham promoted Ms. Thoreson and gave her significant cash and stock bonuses

1 following that meeting as one of his first acts as CEO. He encouraged Ms. Thoreson and  
2 other parents of young children, to bring their children to the office whenever they needed  
3 or wanted to do so and included them in firm holiday parties. Moreover, without her  
4 requesting that he do so, Mr. Wickersham instructed the company to provide Ms. Thoreson  
5 with additional compensation to pay for monthly child care, and had the company pay  
6 roughly \$20,000 in unpaid medical bills, incurred prior to him becoming CEO, that related  
7 to her pregnancy with her first child that insurance had not covered. These are not the acts  
8 of someone who devalues a woman because she has, or is having, a child.

9 18.

10 Answering paragraph 22, Mr. Wickersham admits he texted plaintiff Branch on  
11 September 20, 2018, and unlike plaintiffs' complaint and out-of-context use of select  
12 message terms, Mr. Wickersham attaches the complete text message exchange as Exhibit  
13 B. Contrary to plaintiffs' portrayal of these text messages, Mr. Wickersham and two other  
14 Eastside employees scheduled a 4:00 PM business meeting with a bar manager at Muu-  
15 Muu's, a bar in Branch's sales territory. The purpose of the visit was to introduce Branch  
16 to the bar manager to help her promote Eastside's product at that account (i.e., her job as a  
17 salesperson). Ms. Branch said she would be joining this meeting, and had texted Mr.  
18 Wickersham that she was only a block away at another bar, Bartini. When Branch failed to  
19 show up for 45 minutes, however, Mr. Wickersham facetiously texted her about "getting  
20 drunk" while they waited for her to show up and complete the meeting so that they could  
21 go home. Ms. Branch never showed up, and when Mr. Wickersham and one of his  
22 colleagues later walked by Bartini and inquired about Ms. Branch, Bartini staff said they  
23 had not seen her, suggesting she had not told the truth. Mr. Wickersham lacks sufficient  
24 information to admit or deny whether Ms. Branch ever "informed her supervisor at the  
25 time" or if so of what she informed her supervisor, and so denies the same. However, at no  
26 time did the supervisor or any other person at Eastside tell Mr. Wickersham that they had  
27 been informed of allegedly inappropriate personal comments made by him to Ms. Branch.

1 In fact, in his role as CEO, Mr. Wickersham very rarely had any occasion to communicate  
2 with, or even see, Ms. Branch beyond the one meeting at which she no-showed.

3 19.

4 Answering paragraph 28, Mr. Wickersham denies the implication that he wanted  
5 Eastside's next Sales Director to be male, or that he made any such comment to anyone at  
6 Eastside. Mr. Wickersham denies that Eastside Distilling repeatedly, or ever, hired  
7 unqualified male applicants and promoted them over female candidates with more  
8 experience and denies that he had any involvement with Eastside Distilling's hiring  
9 practices since ceasing to be CEO on May 10, 2019. Mr. Wickersham further denies that  
10 he "preferred to work with males," an allegation that is defied by his history of recruiting  
11 and promoting women in business, and the fact that for more than 20 years in private legal  
12 practice, Mr. Wickersham's sole business partner was a woman with whom he still feels  
13 privileged to have worked.

14 20.

15 The allegations in paragraphs 50, 52-80, 83-84, and 91-98 are not directed towards  
16 Mr. Wickersham and require no answer by him. To the extent these paragraphs require  
17 answer by Mr. Wickersham, they are denied.

18 21.

19 Mr. Wickersham denies the allegations in paragraphs 51 and 82. As alleged above,  
20 Mr. Wickersham never reduced Thoreson's duties after she became pregnant or otherwise  
21 treated her adversely because of her pregnancy. To the contrary, Mr. Wickersham overtly  
22 supported Thoreson by instructing the company to pay for child care because he  
23 understood and respected the challenges of simultaneously building a career and working.  
24 Mr. Wickersham never stated any preference for working with males in supervisory  
25 capacities and, again, overtly supported plaintiff Thoreson in particular. Mr. Wickersham  
26 did not engage in any conceivably inappropriate conduct towards plaintiffs when he was  
27 CEO of Eastside, or any other time, and did not aid or abet any others in doing so.

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22.

Mr. Wickersham denies the allegations in paragraph 85. To the contrary, as plaintiffs were well aware at the time of their terminations, and when they filed this lawsuit, Mr. Wickersham was not CEO of Eastside Distilling after May 10, 2019, months before plaintiffs were terminated in July 2019. Moreover, Mr. Wickersham was not part of any decisions to terminate plaintiffs’ employment, and was not even aware of the decisions until after they were made.

23.

Answering paragraphs 86-90, Mr. Wickersham denies each and every allegation therein including without limitation that Mr. Wickersham engaged in any unlawful conduct, caused either plaintiff to suffer anxiety, humiliation, and embarrassment, or caused either plaintiff to lose income, benefits, or other damage of any kind.

24.

Except as expressly admitted herein, Mr. Wickersham denies each and every allegation in plaintiffs’ complaint and the whole thereof, including the Prayer for Relief.

**AFFIRMATIVE DEFENSES**

Mr. Wickersham asserts the following affirmative defenses:

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

25.

Plaintiff’s complaint fails to state a claim against Mr. Wickersham upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

26.

Plaintiffs’ claims against Mr. Wickersham are untimely and barred by the relevant statute of limitations.





Hi Grover. Thank you again for taking the time to chat with me today and for the awesome lunch. I really appreciate it and am glad you are interested in what's happening in Oregon with our team. Ariella had a good time also. I am excited for the future with Eastside and growing our events. Enjoy the rest of your Sunday and happy Christmas tree hunting. 🎄



Subject

iMessage



1:03



Laurie >

Text Message

Sep 20, 2018, 3:17 PM

Jack and I are going to Muu Muu at 4

Ok. I'm up at bartini at the moment

Sep 20, 2018, 4:44 PM

We are getting drunk at mumu, where are you?

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Text Message



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**CERTIFICATE OF SERVICE**

I certify that I served the foregoing **DEFENDANT GROVER WICKERSHAM’S ANSWER AND AFFIRMATIVE DEFENSES** on the following attorneys by the method indicated below on the 22<sup>nd</sup> day of April, 2020:

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