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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 MIYOKO’S, PBC, a Delaware  
13 Corporation,

14 Plaintiff,

15 v.

16 MIYOKO SCHINNER, an individual,

17 Defendant.

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19  
20 MIYOKO SCHINNER, an individual,

21 Counterclaimant,

22 v.

23 MIYOKO’S, PBC, a Delaware  
24 Corporation; and DOES 1-10.

25  
26 Counterdefendants.  
27  
28

Case No. 4:23-cv-00711-DMR

Assigned to the Hon. Donna M. Ryu

**DEFENDANT MIYOKO  
SCHINNER’S ANSWER TO  
PLAINTIFF’S COMPLAINT**

1 Defendant Miyoko Schinner (“Defendant”) hereby answers the Complaint of  
2 Plaintiff Miyoko’s, PBC (“Plaintiff”) as follows:

3 1. In response to Paragraph 1 of the Complaint, Defendant admits that this is an  
4 action by Plaintiff to recover its trade secrets and confidential information from  
5 Defendant, and to seek redress for Defendant’s theft of this information. Defendant  
6 denies stealing any trade secrets or confidential information.

7 2. In response to Paragraph 2 of the Complaint, Defendant denies each and every  
8 allegation contained therein.

9 3. In response to Paragraph 3 of the Complaint, Defendant denies that she  
10 exhibited “numerous performance deficiencies” as CEO. Defendant is without  
11 sufficient knowledge or information to form a belief as to the truth of the allegation  
12 that the Board’s decision to terminate her was unanimous. Defendant denies that she  
13 “retaliated by stealing [Plaintiff’s] property, including its trade secrets and  
14 confidential information.”

15 4. In response to Paragraph 4 of the Complaint, Defendant denies any theft.  
16 Defendant admits that she copied documents that she was entitled to access as a  
17 member of the Board. Defendant admits to deleting some of those files after she was  
18 informed (incorrectly) that she did not have a right to retain those documents.  
19 Defendant denies that she “has not accounted for the whereabouts of all the  
20 Company property and information[.]”

21 5. Defendant admits Paragraph 5.

22 6. Defendant admits Paragraph 6.

23 7. In response to Paragraph 7 of the Complaint, Defendant denies each and every  
24 allegation contained therein.

25 8. In response to Paragraph 8, Defendant is without sufficient knowledge or  
26 information to form a belief as to the truth of the allegation that “[Plaintiff’s] Board  
27 wanted to keep [Defendant] as CEO.” Defendant admits that she founded the  
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1 company. Defendant denies her alleged “poor performance,” but admits that  
2 Defendant offered her constructive feedback and coaching.

3 9. In response to Paragraph 9 of the Complaint, Defendant is without sufficient  
4 knowledge or information to form a belief as to the truth of the allegation that as to  
5 what “[t]he Board hoped.” Defendant denies that she had “performance  
6 deficiencies.” Defendant denies that she failed to meet the Board’s performance  
7 targets and Company financial targets for both 2020 and 2021.”

8 10. In response to Paragraph 10 of the Complaint, Defendant denies each and  
9 every allegation contained therein.

10 11. In response to Paragraph 11 of the Complaint, Defendant denies each and  
11 every allegation contained therein.

12 12. In response to Paragraph 12 of the Complaint, Defendant denies that she  
13 failed to improve. Defendant admits that “[Plaintiff] continued to work with her and  
14 explored alternative roles for her within the Company.” Defendant denies that  
15 Plaintiff “suggested [she] work as Executive Chair.” Defendant admits that Plaintiff  
16 “suggested” that she hire a CEO or President to manage day-to-day operations.  
17 Defendant admits she initially agreed to the proposal, but later changed her mind.

18 13. In response to Paragraph 13 of the Complaint, Defendant is without  
19 sufficient knowledge or information to form a belief as to the truth of the allegation  
20 that “[Plaintiff] agreed to give [Defendant] another chance.” Defendant admits that  
21 Plaintiff put in place quarterly OKRs Defendant must meet to continue as CEO, but  
22 not until the second quarter of 2022.

23 14. In response to Paragraph 14 of the Complaint, Defendant denies that she  
24 “failed to meet the OKRs the very next quarter (first quarter of 2022).” Defendant is  
25 without sufficient knowledge or information to form a belief as to the truth of the  
26 allegation that Defendant’s “senior leadership team brought multiple concerns about  
27 [Defendant] to the Board and threatened to quit due to [Defendant]’s  
28 mismanagement.”

1 15. In response to Paragraph 15 of the Complaint, Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of the allegation  
3 that the Board’s decision to remove her as CEO was unanimous. Defendant admits  
4 that Plaintiff started discussions with her about a new role for her within the  
5 company. Defendant admits that she was “a non-officer employee after her  
6 termination as CEO.”

7 16. In response to Paragraph 16 of the Complaint, Defendant denies each and  
8 every allegation contained therein.

9 17. In response to Paragraph 17 of the Complaint, Defendant is without  
10 sufficient knowledge or information to form a belief as to the truth of the allegation  
11 that the company “informed its workforce that [Defendant] was stepping down as  
12 CEO.” Defendant denies that she “intentionally disrupted Company operations.”  
13 Defendant admits that she signaled her intent to start her own company, as is her  
14 right. Defendant denies that she intended to compete with Plaintiff.

15 18. In response to Paragraph 18 of the Complaint, Defendant denies each and  
16 every allegation contained therein.

17 19. In response to Paragraph 19 of the Complaint, Defendant is without  
18 sufficient knowledge or information to form a belief as to the truth of the allegations  
19 contained in said paragraph, and on that basis denies each and every allegation  
20 contained therein.

21 20. In response to Paragraph 20 of the Complaint, Defendant denies each and  
22 every allegation contained therein.

23 21. In response to Paragraph 21 of the Complaint, Defendant is without  
24 sufficient knowledge or information to form a belief as to the truth of the allegations  
25 contained in said paragraph, and on that basis denies each and every allegation  
26 contained therein.

27 22. In response to Paragraph 22 of the Complaint, Defendant denies that there  
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1 was any “plot.” Defendant admits that Plaintiff sent two separate notices to her  
2 counsel advising her of her legal obligations to preserve everything relating to its  
3 investigation of her alleged “theft” and to refrain from opening her Company-issued  
4 laptops – the only laptops she owned.

5 23. In response to Paragraph 23 of the Complaint, Defendant denies violating the  
6 two preservation notices, denies that she had any “stolen property,” denies that she  
7 “cover[ed] her tracks,” denies that there was any “stolen IP” and denies that she  
8 “tried to coverup what she had done. ” Defendant is without sufficient knowledge or  
9 information to form a belief as to the truth of the allegation that she “wiped around  
10 2,900 documents from the two Company computers” and that “[f]orensics later  
11 revealed that [Defendant] backed up nearly the entire contents of the Company's  
12 documents from her Company—issued laptops to her personal Dropbox and Google  
13 Drive.”

14 24. In response to Paragraph 24 of the Complaint, Defendant denies each and  
15 every allegation contained therein.

16 25. Defendant admits the allegation in Paragraph 25.

17 26. Defendant admits the allegation in Paragraph 26.

18 27. In response to Paragraph 27 of the Complaint, Defendant admits that this  
19 Court has jurisdiction under federal question jurisdiction pursuant to 28 U.S.C. §  
20 1331 and that it has supplemental jurisdiction over the state law claims under 28  
21 U.S.C. § 1357 because those claims are part of the same case or controversy.

22 28. In response to Paragraph 28 of the Complaint, Defendant admits that venue  
23 is proper under 28 U.S.C. §§ 1391(b) and (c).

24 29. In response to Paragraph 29 of the Complaint, Defendant admits that the  
25 divisional assignment in this action is proper.

26 30. In response to Paragraph 30 of the Complaint, Defendant admits that the  
27 Company is a leading innovator at the forefront of a growing market of plant-based  
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1 cheese and butter products. Defendant denies that its plant-based milks and cheeses  
2 are created with one-of-a-kind, proprietary recipes and cultures. Defendant denies  
3 that the Company devotes significant time and resources to research and  
4 development. Defendant denies that the research and development is undertaken in a  
5 location “walled off from non-R&D departments.”

6 31. In response to Paragraph 31 of the Complaint, Defendant denies that  
7 Plaintiff’s very existence as a company is based on any proprietary recipes and  
8 cultures. Defendant denies that Plaintiff takes diligent steps to protect its trade  
9 secrets and confidential information. Defendant admits that Company employees  
10 sign confidentiality agreements and proprietary rights agreements as a condition of  
11 employment. Defendant denies that Plaintiff’s R&D department is walled off from  
12 other departments and employees and that access to R&D materials is limited.  
13 Defendant is without sufficient knowledge or information to form a belief as to the  
14 truth of the allegation that Plaintiff’s “employee handbook—which employees must  
15 acknowledge—reaffirms the importance of keeping the Company’s trade secrets  
16 confidential.” Defendant denies that the Company has any true “trade secrets.”

17 32. In response to Paragraph 32 of the Complaint, Defendant admits that she  
18 signed a CIIAA.

19 33. Defendant admits all allegations in Paragraph 33 of the Complaint.

20 34. In response to Paragraph 34 of the Complaint, Defendant denies each and  
21 every allegation contained therein.

22 35. In response to Paragraph 35, Defendant is without sufficient knowledge or  
23 information to form a belief as to the truth of the allegation that “[Plaintiff’s] Board  
24 wanted to keep [Plaintiff] as CEO.” Defendant admits that she founded the  
25 company. Defendant denies her alleged “poor performance,” but admits that Plaintiff  
26 offered her constructive feedback and coaching.

27 36. In response to Paragraph 36, Defendant admits that she was coached by Mr.  
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1 Joaquin on preparing board presentations, as well as occasional general  
2 suggestions on best hiring practices. Defendant also worked regularly with a CEO  
3 coach.

4 37. In response to Paragraph 37 of the Complaint, Defendant denies each and  
5 every allegation contained therein.

6 38. In response to Paragraph 38 of the Complaint, Defendant denies each and  
7 every allegation contained therein.

8 39. In response to Paragraph 39 of the Complaint, Defendant denies each and  
9 every allegation contained therein.

10 40. In response to Paragraph 40 of the Complaint, Defendant denies each and  
11 every allegation contained therein.

12 41. In response to Paragraph 41 of the Complaint, Defendant denies that she  
13 failed to improve. Defendant admits that “[Plaintiff] continued to work with her and  
14 explored alternative roles for her within the Company.” Defendant admits that  
15 Plaintiff suggested she work as Executive Chair. Defendant admits that Plaintiff  
16 suggested that she hire a CEO or President to manage day-to-day operations.  
17 Defendant admits she “initially agreed to the proposal, but later changed her mind,  
18 and requested that she remain CEO.”

19 42. In response to Paragraph 42 of the Complaint, Defendant is without  
20 sufficient knowledge or information to form a belief as to the truth of the allegation  
21 that “[Plaintiff] agreed to give [Defendant] another chance.” Defendant admits that  
22 Plaintiff put in place quarterly OKRs that Defendant must meet to continue as CEO,  
23 but Plaintiff only did so in the second quarter of 2022.

24 43. In response to Paragraph 43 of the Complaint, Defendant denies that she  
25 “failed to meet the OKRs the very next quarter (first quarter of 2022),” given that  
26 Plaintiff only put in place quarterly OKRs beginning in the second quarter of 2022.  
27 Defendant is without sufficient knowledge or information to form a belief as to the  
28 truth of the allegation that Defendant’s “team brought multiple concerns about  
[Defendant] to the Board and threatened to quit due to [her] mismanagement.”



1 44. In response to Paragraph 44 of the Complaint, Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of the allegation  
3 that the Board’s decision to remove her as CEO was unanimous. Defendant admits  
4 that she was “a non-officer employee after her termination as CEO.” Defendant is  
5 without sufficient knowledge or information to form a belief as to the truth of the  
6 allegation that the company “informed its entire workforce that [Defendant] was  
7 stepping down as CEO.”

8 45. In response to Paragraph 45 of the Complaint, Defendant admits that she  
9 signaled her intent to start her own company but did not indicate what type of  
10 company she intended to start, much less that it was a competing business.  
11 Defendant denies that she intended to compete with Plaintiff.

12 46. In response to Paragraph 46 of the Complaint, Defendant denies that there  
13 was “disruptive activity.”

14 47. In response to Paragraph 47 of the Complaint, Defendant admits that she  
15 copied documents that she was entitled to access as a member of the Board.  
16 Defendant admits to deleting some of those files after she was informed (incorrectly)  
17 that she did not have a right to retain those documents. Defendant denies that she  
18 “has not accounted for the whereabouts of all the Company property and  
19 information[.]”

20 48. In response to Paragraph 48 of the Complaint, Defendant is without  
21 sufficient knowledge or information to form a belief as to the truth of the allegation  
22 of what forensics revealed. Defendant admits that she copied documents that she  
23 was entitled to access as a member of the Board. Defendant denies that the files  
24 contained a wide variety of trade secrets and confidential Company information.

25 49. In response to Paragraph 49 of the Complaint, Defendant denies  
26 misappropriating confidential information. Defendant admits that Company  
27 documents were downloaded using her credentials, but that those documents related  
28 to her speaking engagements.



1 50. In response to Paragraph 50 of the Complaint, Defendant is without  
2 sufficient knowledge or information to form a belief as to the truth of the allegation  
3 that a folder named “Box” was created on her laptop or that she copied a folder  
4 named “AA Archives.” Defendant admits that she copied the remaining folders, all  
5 of which she was entitled to access as an active Board member.

6 51. In response to Paragraph 51 of the Complaint, Defendant denies she was  
7 involved in any “scheme to steal the Company’s confidential and proprietary  
8 information.”

9 52. In response to Paragraph 52 of the Complaint, Defendant admits to  
10 removing Company property, but only property carrying no value to the Company.  
11 Defendant admits to transferring a refrigerator, personally owned by Defendant, to a  
12 moving truck.

13 53. In response to Paragraph 53 of the Complaint, Defendant admits that Ms.  
14 Kirkham downloaded specification (“spec”) sheets, which can be found online and  
15 that are not proprietary. Defendant admits to receiving the thumb drive and copying  
16 its contents, which were non-proprietary and which she has a right to access as a  
17 Board member, to her Dropbox account.

18 54. In response to Paragraph 54 of the Complaint, Defendant is without  
19 sufficient knowledge or information to form a belief as to the truth of the allegation  
20 that she copied a folder called “AA Archive” or what contents were stored therein.  
21 Defendant denies that there were “many proprietary culture configurations used to  
22 create the Company’s plant-based products.” Defendant denies that any “culture  
23 configurations took years and substantial resources to develop.” Defendant denies  
24 that the folders contained “many proprietary Company recipes” or “highly  
25 proprietary and confidential documents.”

26 55. In response to Paragraph 55 of the Complaint, Defendant is without  
27 sufficient knowledge or information to form a belief as to when the Company first  
28 became aware that Defendant “had potentially acted improperly.” Defendant denies

1 acting improperly. Defendant admits that Plaintiff communicated with her counsel  
2 regarding preservation obligations.

3 56. In response to Paragraph 56 of the Complaint, Defendant is without  
4 sufficient knowledge or information to form a belief as to the timing of the counsel  
5 communications and the date in which Defendant sent over purported Company  
6 property.

7 57. In response to Paragraph 57 of the Complaint, Defendant is without  
8 sufficient knowledge or information to form a belief as to precisely what she had  
9 deleted. Defendant sought to delete and uninstall Dropbox from her laptop as she  
10 had personal information stored therein.

11 58. In response to Paragraph 58 of the Complaint, Defendant denies that the  
12 Company had “proprietary recipes.”

13 59. In response to Paragraph 59 of the Complaint, Defendant is without  
14 sufficient knowledge or information to form a belief as to whether she  
15 “backed up nearly the entire contents of the Company’s documents.” Defendant  
16 denies that the Company had “valuable, proprietary information and IP.” Defendant  
17 is without sufficient knowledge or information to form a belief as to whether the  
18 Company exhausted all reasonable efforts to get Defendant to return all copies of the  
19 Company’s purported confidential and proprietary information. Defendant denies  
20 that she refused to comply with any requests by the Company with respect to these  
21 documents.

22 60. Defendant admits Paragraph 60.

23 **AFFIRMATIVE DEFENSES**

24 Without assuming the burden of proof or persuasion, Defendant is informed  
25 and believes and on that ground alleges that Plaintiff’s Complaint is subject to the  
26 following affirmative defenses:

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1                                   **FIRST AFFIRMATIVE DEFENSE**  
2                                   **(Facts Insufficient to State Any Cause of Action)**

3                   1. The Complaint as a whole, and each purported cause of action alleged  
4                   therein, fails to state facts sufficient to constitute any cause of action against  
5                   Defendant upon which relief may be granted.

6                                   **SECOND AFFIRMATIVE DEFENSE**  
7                                   **(Lack of Standing)**

8                   2. Plaintiff's Complaint, and each purported cause of action and/or form of  
9                   recovery contained therein, is barred to the extent that Plaintiff lacks standing to  
10                  assert any of the causes of action and/or form of recovery contained in the  
11                  Complaint because Plaintiff has not suffered any injury-in-fact or for which Plaintiff  
12                  does not have a private right of action. Moreover, Plaintiff lacks standing because its  
13                  Board did not vote to initiate this lawsuit.

14                                  **THIRD AFFIRMATIVE DEFENSE**  
15                                  **(Waiver)**

16                  3. The Complaint, and each purported cause of action alleged therein, is  
17                  barred on the ground that Plaintiff has expressly and/or impliedly waived the right to  
18                  assert such causes of action by virtue of its verbal and/or written expressions or  
19                  conduct.

20                                  **FOURTH AFFIRMATIVE DEFENSE**  
21                                  **(Estoppel)**

22                  4. By virtue of its conduct, Plaintiff must be estopped from asserting any of  
23                  the causes of action in the Complaint against Defendant.

24                                  **FIFTH AFFIRMATIVE DEFENSE**  
25                                  **(Laches)**

26                  5. Plaintiff is barred from proceeding with this action on the ground that  
27                  Plaintiff is guilty of laches in failing to timely commence this action, which has  
28                  prejudiced Defendant in her ability to discover adequate witnesses, testimony, facts,  
                    and evidence to support Defendant's defenses.

1                                   **SIXTH AFFIRMATIVE DEFENSE**  
2                                   **(Unclean Hands)**

3           6. Defendant is informed and believes and thereon alleges that Plaintiff, by its  
4           own conduct, is guilty of unclean hands, which completely bars or reduces recovery,  
5           if any, to which it may be entitled, all in accordance with proof at trial.

6                                   **SEVENTH AFFIRMATIVE DEFENSE**  
7                                   **(Consent)**

8           7. The Complaint, and each purported cause of action alleged therein, is  
9           barred on the ground that at all times alleged in the Complaint, Plaintiff expressly or  
10           impliedly assented to, ratified, or concurred with the conduct alleged to be unlawful.

11                                   **EIGHTH AFFIRMATIVE DEFENSE**  
12                                   **(Federal and/or State Preemption)**

13           8. Plaintiff's Complaint, and each claim contained therein, is barred to the  
14           extent that Plaintiff's claims are preempted by federal and/or state law.

15                                   **NINTH AFFIRMATIVE DEFENSE**  
16                                   **(Good Faith)**

17           9. All actions taken by Defendant with respect to Plaintiff, at all times relevant  
18           to this action, were taken in good faith for legitimate reasons.

19                                   **TENTH AFFIRMATIVE DEFENSE**  
20                                   **(Offset)**

21           10. Defendant alleges that it has suffered damages by reason of Plaintiff's  
22           conduct, and Defendant has a right to offset her damages against the damages, if  
23           any, of Plaintiff.

24                                   **ELEVENTH AFFIRMATIVE DEFENSE**  
25                                   **(Failure to Mitigate)**

26           11. Without admitting any facts pled by Plaintiff, Defendant alleges that if  
27           Plaintiff sustained any loss, injury or damages either as alleged in the Complaint or  
28           at all, which Defendant expressly denies, the same were directly and proximately  
          caused and/or exacerbated by Plaintiff's own conduct, promises and representations

1 to Defendant, and failure to take actions to mitigate these losses, injuries, or  
2 damages.

3 **TWELFTH AFFIRMATIVE DEFENSE**  
4 **(Speculative Damages and/or Penalties)**

5 12. Plaintiff is precluded from recovering the damages alleged in the  
6 Complaint because those damages and/or penalties are too vague, ambiguous,  
7 excessive, unreasonable, uncertain and speculative to permit recovery.

8 **THIRTEENTH AFFIRMATIVE DEFENSE**  
9 **(Defendant Exercised Reasonable Care to Prevent and Promptly Correct**  
10 **Misconduct)**

11 13. Without admitting any facts pled by Plaintiff, Defendant asserted that  
12 Plaintiffs claims fail because Defendant exercised reasonable care to prevent and  
13 promptly correct the alleged misconduct.

14 **FOURTEENTH AFFIRMATIVE DEFENSE**  
15 **(Essential Lawful Part of Business Operations)**

16 14. Defendant alleges the Complaint, and each purported cause of action  
17 contained therein, is barred because the alleged conduct, if true, would be an  
18 essential lawful part of Defendant's business operations and/or consistent with  
19 industry practice.

20 **FIFTEENTH AFFIRMATIVE DEFENSE**  
21 **(After-Acquired Evidence)**

22 15. Defendant alleges the Complaint, and each purported cause of action  
23 contained therein, or some of them, are barred and/or relief may be limited due to  
24 after-acquired evidence of Plaintiff.

25 **SIXTEENTH AFFIRMATIVE DEFENSE**  
26 **(Reasonable Care)**

27 16. Defendant alleges the Complaint, and each purported cause of action  
28 contained therein, is barred because Defendant exercised reasonable care to prevent

1 and correct promptly any alleged misconduct and Plaintiff unreasonably failed to  
2 avoid harm otherwise.

3 **SEVENTEENTH AFFIRMATIVE DEFENSE**  
4 **(Legitimate Business Reason)**

5 17. Defendant alleges the Complaint, and each purported cause of action  
6 contained therein, is barred because Defendant had legitimate business reasons for  
7 taking certain action.

8 **EIGHTEENTH AFFIRMATIVE DEFENSE**  
9 **(Mixed Motive)**

10 18. As Defendant allege the Complaint, and each purported cause of action  
11 contained therein, is barred because in the event that Plaintiff proves any wrongful  
12 acts by Defendant, the actions about which Plaintiff complains would have been the  
13 same even if the alleged wrongful motive played no role.

14 **NINETEENTH AFFIRMATIVE DEFENSE**  
15 **(Failure to Show Intent or Willfulness)**

16 19. Plaintiff's claims for penalties are barred in whole or in part, because  
17 Plaintiff has not alleged, and cannot allege, facts demonstrating, that Defendant's  
18 conduct was willful, intentional or harmful. Without admitting any facts pled in the  
19 Complaint, Defendant alleges that she engaged in lawful conduct that was with  
20 cause and justification, and Defendant is not liable for any purported injuries or  
21 claims which Plaintiff now declares.

22 **TWENTIETH AFFIRMATIVE DEFENSE**  
23 **(No Punitive Damages)**

24 20. Defendant alleges that Plaintiff is not entitled to recover the punitive  
25 damages in its Complaint as an award of punitive damages would violate  
26 Defendant's rights under the Constitution of the United States of America and under  
27 the Constitution of the State of California including Defendant's rights to (1)  
28 procedural due process under the Fourteenth Amendment of the United States  
Constitution and the Constitution of the State of California; (2) protection for

1 “excessive fines” as provided in the Eighth Amendment of the United States  
2 Constitution and Article I, Section 17 of the Constitution of the State of California;  
3 and (3) substantive due process provided in the Fifth and Fourteenth Amendments of  
4 the United States of America Constitution and the Constitution of the State of  
5 California.

6 **TWENTY-FIRST AFFIRMATIVE DEFENSE**  
7 **(Avoidable Consequences Doctrine)**

8 21. Defendant alleges the Complaint, and each and every cause of action  
9 alleged therein, is barred on the ground that, without admitting that it engaged in any  
10 of the acts or conduct attributed to it in the Complaint, that Plaintiff's claims and  
11 damages are barred in whole or in part by Plaintiff's failure to take reasonable and  
12 necessary steps to avoid the harm and/or consequences it allegedly suffered. Plaintiff  
13 is barred from recovering any damages that it could have avoided with reasonable  
14 effort.

15 **TWENTY-SECOND AFFIRMATIVE DEFENSE**  
16 **(Release)**

17 22. The Complaint, and each purported cause of action alleged therein, is  
18 barred on the ground that Plaintiff released and waived any and all claims it may  
19 have against Defendant.

20 **TWENTY-THIRD AFFIRMATIVE DEFENSE**  
21 **(Third Parties)**

22 23. Defendant alleges that the Complaint, and each purported cause of action  
23 contained therein, is barred in whole or in part because any injuries or damages  
24 allegedly sustained by Plaintiff were not the result of any acts, omissions or other  
25 conduct of Defendant. Further, any alleged injuries were caused in part or in whole  
26 by third parties or intervening occurrences.

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**TWENTY-FOURTH AFFIRMATIVE DEFENSE**  
**(Lack of Knowledge)**

24. Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred in whole or in part and limited by her lack of actual or constructive knowledge. Plaintiff did not provide Defendant with an opportunity to correct any alleged violations and provide the appropriate remedy, if any, to Plaintiff prior to the time the Complaint was filed.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**  
**(Business Necessity)**

25. Any recovery on Plaintiff's Complaint is barred on the ground that every action taken with respect to Plaintiff was done out of business necessity.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**  
**(Lack of Authorization to Initiate Litigation)**

26. Defendant alleges that the Complaint, and each and every cause of action alleged therein, is barred on the ground that Plaintiff's Board did not vote to initiate litigation.

**RESERVATION OF RIGHTS**

Defendant reserves the right to amend or add any additional defenses or counterclaims which may become known during the course of discovery.

WHEREFORE, Defendant prays as follows:

1. That Plaintiff takes nothing by way of its Complaint;
2. That Defendant recover attorneys' fees, expert fees and investigator fees;
3. That Defendant recover costs of suit herein; and
4. That the Court award such other and further relief as it deems appropriate.

DATED: March 16, 2023

The Bloom Firm

/s/ Lisa Bloom

Lisa Bloom

Alan Goldstein

Attorneys for Defendant  
MIYOKO SCHINNER

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**PROOF OF SERVICE**  
**MIYOKO'S, PBC v. MIYOKO SCHINNER**  
USDC, Northern District of California  
Case No.: 4:23-cv-00711-DMR

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 26565 Agoura Road, Suite 200, Calabasas, California 91302.

On March 16, 2023, I served the following document described as:

**DEFENDANT MIYOKO SCHINNER'S ANSWER TO PLAINTIFF'S COMPLAINT.**

The above-referenced documents were served on the interested parties in this action as follows:

PLEASE SEE ATTACHED SERVICE LIST.

**BY ELECTRONIC TRANSMISSION VIA CM/ECF:** I caused the document to be electronically delivered to the interested parties at the addresses on the attached Service List via the Court's CM/ECF System.

**BY ELECTRONIC TRANSMISSION:** I caused the said document(s) to be transmitted electronically, per stipulation of counsel and/or state or local rules, to the addressees referenced on the attached Service List at the email addresses shown below their names. My email address is [Steve@TheBloomFirm.com](mailto:Steve@TheBloomFirm.com)

**FEDERAL:** I declare that I am employed in the offices of a member of the bar of this court at whose direction this service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct and that this declaration was executed on March 16, 2023, at Lancaster, California.



STEVEN K. CONLON

**SERVICE LIST**

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