# UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

ZAZA PACHULIA and TINATIN ALALIDZE,

Plaintiffs, Case No.: 16CV1531

v.

R. USOW ACCOUNTING, LLC and RANDY USOW,

Defendants.

# DEFENDANTS’ ANSWER TO PLAINTIFFS’ COMPLAINT

Defendants, Randy Usow Accounting, Inc. (incorrectly named as R. Usow Accounting, LLC) and Randy Usow, by and through their attorneys, WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP, hereby answer Plaintiffs’ Complaint as follows:

# INTRODUCTION

1. Answering paragraph 1, these answering defendants deny any allegation contained therein that defendants failed in any duty of care or violation of professional standard; further answering, deny that any alleged violation caused any damages to plaintiffs; further answering, admit that plaintiffs did retain defendants for the provision of accounting services.

# JURISDICTION AND VENUE

1. Answering paragraph 2, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
2. Answering paragraph 3, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.

# PARTIES

1. Answering paragraph 4, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
2. Answering paragraph 5, these answering defendants affirmatively respond that R. Usow Accounting, LLC is an improperly named defendant; plaintiffs retained the services of Randy Usow Accounting, Inc. for all relevant services relevant to the allegations of the subject complaint. Randy Usow is the sole owner of Randy Usow Accounting, Inc., which is domiciled in the State of Wisconsin.
3. Answering paragraph 6, these answering defendants respond that R. Usow Accounting, LLC is an improperly named defendant; plaintiffs retained the services of Randy Usow Accounting, Inc. for all relevant services relevant to the allegations of the subject complaint. Randy Usow Accounting, Inc. is domiciled in the State of Wisconsin.

# FACTS

1. Answering paragraph 7, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
2. Answering paragraph 8, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
3. Answering paragraph 9, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
4. Answering paragraph 10, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
5. Answering paragraph 11, these answering defendants admit.
6. Answering paragraph 12, these answering defendants admit.
7. Answering paragraph 13, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
8. Answering paragraph 14, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
9. Answering paragraph 15, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
10. Answering paragraph 16, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
11. Answering paragraph 17, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
12. Answering paragraph 18, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
13. Answering paragraph 19, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
14. Answering paragraph 20, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
15. Answering paragraph 21, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
16. Answering paragraph 22, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
17. Answering paragraph 23, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
18. Answering paragraph 24, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
19. Answering paragraph 25, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
20. Answering paragraph 26, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
21. Answering paragraph 27, these answering defendants deny.
22. Answering paragraph 28, these answering defendants deny.
23. Answering paragraph 29, these answering defendants deny performing any tasks associated with filing of Plaintiffs’ income tax returns without Plaintiffs knowledge and consent; further answering, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
24. Answering paragraph 30, these answering defendants deny any allegation that Plaintiffs did not receive the full amount of all subject refunds; further answering, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
25. Answering paragraph 31, these answering defendants deny.
26. Answering paragraph 32, these answering defendants deny all allegations contained therein.
27. Answering paragraph 33, these answering defendants deny.
28. Answering paragraph 34, these answering defendants deny any and all alleged failures; further answering, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
29. Answering paragraph 35, these answering defendants deny.
30. Answering paragraph 36, these answering defendants deny.

# COUNT I

**(Breach of Contract)**

1. Answering paragraph 37, defendants incorporate and reassert by reference all responses to paragraphs 1 through 36 of the plaintiffs’ complaint, above.
2. Answering paragraph 38, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
3. Answering paragraph 39, these answering defendants deny.
4. Answering paragraph 40, these answering defendants deny.

# COUNT II

**(Negligence)**

1. Answering paragraph 41, defendants incorporate and reassert by reference all responses to paragraphs 1 through 40 of the plaintiffs’ complaint, above.
2. Answering paragraph 42, these answering defendants state that the allegation contained therein calls for a legal conclusion to which no response is required. To the extent a response is required, these answering defendants lack information or knowledge sufficient to form a belief as to the truth of the matter asserted and, as such, deny.
3. Answering paragraph 43, these answering defendants deny.
4. Answering paragraph 44, these answering defendants deny.
5. Answering paragraph 45, these answering defendants deny.
6. Answering paragraph 46, these answering defendants deny.

# COUNT III

**(Breach of Fiduciary Duty)**

1. Answering paragraph 47, defendants incorporate and reassert by reference all responses to paragraphs 1 through 46 of the plaintiffs’ complaint, above.
2. Answering paragraph 48, these answering defendants deny.
3. Answering paragraph 49, these answering defendants deny.
4. Answering paragraph 50, these answering defendants deny.
5. Answering paragraph 51, these answering defendants deny.
6. Answering paragraph 52, these answering defendants deny.

# COUNT IV

**(Fraud/Intentional Misrepresentation)**

1. Answering paragraph 53, defendants incorporate and reassert by reference all responses to paragraphs 1 through 52 of the plaintiffs’ complaint, above.
2. Answering paragraph 54, these answering defendants deny.
3. Answering paragraph 55, these answering defendants deny.
4. Answering paragraph 56, these answering defendants deny committing any misrepresentations, intentional or otherwise.
5. Answering paragraph 57, these answering defendants deny.
6. Answering paragraph 58, these defendants deny.
7. Answering paragraph 59, these defendants deny.
8. Answering paragraph 60, these defendants deny.

# AFFIRMATIVE DEFENSES

Defendants, Randy Usow Accounting, Inc. (incorrectly named as R. Usow Accounting, LLC) and Randy Usow, by and through their attorneys, WILSON ELSER MOSKOWITZ

EDELMAN & DICKER, LLP, hereby allege and show to the Court, upon and information and belief, the following affirmative defenses:

1. Plaintiffs may have failed to state a claim upon which relief can be granted.
2. Plaintiffs damages may have been caused by their own conduct.
3. Plaintiffs seek damages that may have arisen from conduct to which they consented and participated.
4. All services provided by the Defendants were in accordance with professional standards and obligations.
5. Defendants reasonably relied on information from the Plaintiffs in performing all services at issue in this case.
6. Plaintiffs may have failed to mitigate their damages.
7. Plaintiffs recovery for some or all of their claimed damages may be barred as inconsistent with public policy.
8. Plaintiffs may have failed to join an indispensible party.
9. Any alleged injuries or damages sustained by the Plaintiffs may have been caused by the carelessness and negligence of parties not controlled by the Defendants.

**WHEREFORE**, Defendants, Randy Usow Accounting, Inc. (incorrectly named as R. Usow Accounting, LLC) and Randy Usow, hereby demand judgment dismissing the Plaintiffs’ Complaint together with all costs and disbursements.

# DEFENDANTS HEREBY REQUEST A JURY BY TWELVE.

Dated this 3rd day of January, 2017

# WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP

Attorneys for Defendants,

Randy Usow Accounting, Inc. (incorrectly identified as R. Usow Accounting, LLC) and Randy Usow

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