

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Barbara Calkins,

Plaintiff,

vs.

Rebecca and Peter Adams, Individually,

Defendants.

2017-CP-10-4530  
IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Civil Action No. 2017-CP-10-4530

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S COMPLAINT**

FILED  
CLERK OF COURT  
JUL 16 2017  
SEP 28 PM 2:25

Defendants Rebecca and Peter Adams by and through undersigned counsel, hereby answer Plaintiff's Summons and Complaint in the above-captioned case as follows:

**FOR A FIRST DEFENSE**

1. Each and every allegation contained in the Plaintiff's Complaint is denied unless specifically admitted herein; further, the Defendants hereby request a jury trial.
2. The Defendants admit the allegations of Paragraph 1 upon information and belief.
3. The Defendants admit the allegations of Paragraph 2 insofar as they are citizens and residents of Charleston County, South Carolina currently residing at 33 Still Shadow Drive, Charleston, South Carolina. All remaining allegations of Paragraph 2 are denied.
4. Defendants admit the allegations of Paragraph 3 such that Plaintiff alleges she was injured on November 26, 2015, at 33 Still Shadow Drive in Charleston County but liability by the Defendants is expressly denied.
5. Paragraph 4 contains allegations predicated upon legal conclusions, which do not require a response. To the extent that a response may be required, the Defendants admit the allegations of Paragraph 4.

6. The allegations of Paragraph 5 are summary in nature and no response by the Defendants is required. However, to the extent a response is required, Defendants incorporate all previously enumerated responses herein.

7. The allegations of Paragraph 6 are denied.

8. Paragraph 7 contains legal conclusions which do not require a response; however, to the extent that a response is required, the Defendants deny that Paragraph 7 sets forth an accurate or complete statement of the law applicable to this matter. Further, all factual allegations and all remaining allegations espoused in Paragraph 7 are denied.

9. The allegations of Paragraph 8 are denied.

10. The allegations of Paragraph 9 are denied.

11. The Defendants are without information sufficient to form a belief as to the allegations of Paragraph 10; therefore, the allegations of Paragraph 10 are denied.

12. The Defendants are without information sufficient to form a belief as to the allegations of Paragraph 11; therefore, the allegations of Paragraph 11 are denied.

13. The allegations of Paragraph 12 are denied.

14. The allegations of Paragraph 13 are denied.

15. The allegations of Paragraph 14 are denied.

16. The allegations of Paragraph 15 are denied.

17. The allegations of Paragraph 16, including but not limited to subparts (a.) through (g.) are denied.

18. The allegations of Paragraph 17, including but not limited to subparts (a.) through (k.) are denied.

19. The allegations of Paragraph 18 are denied.

20. To the extent that Plaintiff's prayer for relief contains allegations against the Defendants, such allegations are denied.

**FOR A SECOND DEFENSE**

21. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

22. Plaintiff fails to state a claim for which relief may be granted on her cause of action for negligence as Plaintiff cannot prove that the Defendants breached any duty owed to her, thereby causing damages to the Plaintiff. As such, the Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A THIRD DEFENSE**

23. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

24. The Defendants allege that if any injuries and damages were sustained by the Plaintiff, and the existence of such alleged injuries and damages is denied, said injuries and damages were caused by the sole negligence and/or willfulness of the Plaintiff, without which negligence and/or willfulness by the Plaintiff, said alleged injury or damage would not have occurred or been sustained and, for this reason, Plaintiff is wholly barred from recovery.

**FOR A FOURTH DEFENSE**

25. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

26. The Defendants allege that if any injuries and damages were sustained by the Plaintiff, and the existence of such alleged injuries and damages is denied, said injuries and damages were caused by the greater negligence and/or willfulness of the Plaintiff, which exceeds

the negligence and/or willfulness, if any, on the part of the Defendants, without which greater negligence and/or willfulness on the part of the Plaintiff, said alleged injury or damage would not have occurred or been sustained and, for this reason, Plaintiff is wholly barred from recovery.

**FOR A FIFTH DEFENSE**

27. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

28. Alternatively, the Defendants allege that if any injuries and damages were sustained by the Plaintiff, and the existence of such alleged injuries and damages is denied, said injuries and damages were caused by the negligence and/or willfulness of the Plaintiff, combining, concurring, and contributing with the negligence and/or willfulness, if any, on the part of the Defendants and, for that reason, the Plaintiff's recovery, if any, must be reduced in proportion to the amount of Plaintiff's own negligence.

**FOR A SIXTH DEFENSE**

29. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

30. The Defendants allege that if any injuries and damages were sustained by the Plaintiff, and the existence of such alleged injuries and damages is denied, said injuries and damages were caused by an intervening, superseding act of negligence of third parties named or unnamed in this action for which the Defendants are not liable; thus, Plaintiff's claims are barred.

**FOR A SEVENTH DEFENSE**

31. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

32. The damages suffered by Plaintiff, if any, were the result of the acts or omissions of other parties, named or unnamed in this action, for which the Defendants bear no responsibility.

**FOR AN EIGHTH DEFENSE**

33. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

34. The facts not having been fully developed, the Defendants affirmatively plead any of the following defenses that may become applicable to this action: accord and satisfaction, arbitration and award, assumption of the risk, coercion, contract, election of remedies, estoppel, failure of consideration, illegality, laches, license, payment, release, res judicata, satisfaction, statute of frauds, waiver, failure of Plaintiff to mitigate damages or take reasonable steps to avoid damages, and any other matter constituting affirmative defense or an avoidance.

**FOR A NINTH DEFENSE**

35. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

36. The Defendants at all times acted reasonably and in good faith in the exercise of its legal rights and at no time breached any duty, acted with any malice or ill-will toward the Plaintiff, or recklessly or wantonly, or with a conscious disregard for the Plaintiff's rights, and, thus, the Plaintiff cannot sustain a claim for punitive damages. Further, punitive damages as sought by the Plaintiff are excessive, unconstitutional and violate the Due Process Clause of the United States and South Carolina Constitutions.

37. The Defendants plead that some or all of Plaintiff's claims may be barred, limited and/or bifurcated pursuant to S.C. Code Ann. §15-35-510 *et seq.*

**FOR A TENTH DEFENSE**

38. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

39. The Defendants plead that some or all of Plaintiff's claims may be barred, limited or apportioned pursuant to S.C. Code Ann. §15-38-15.

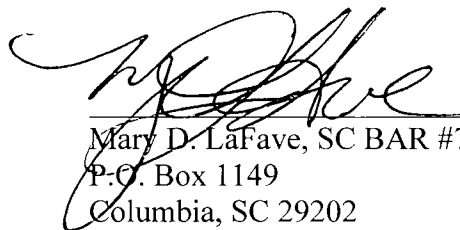
**FOR AN ELEVENTH DEFENSE**

40. The Defendants adopt and re-allege each and every allegation set forth above as if fully repeated herein.

41. The Defendants reserve the right to amend this Answer to plead additional defenses as discovery progresses.

WHEREFORE, having fully answered the Complaint of the Plaintiff, the Defendants pray that the Court dismiss the Complaint and, further, pray for such other and further relief as the nature of the Defendants' cause may require.

**CROWE LAFAVE, LLC**



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Attorney for Defendants Rebecca and Peter Adams

This 25th day of September 2017  
Columbia, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Barbara Calkins,

Plaintiff,

vs.

Rebecca and Peter Adams, individually,

Defendants.

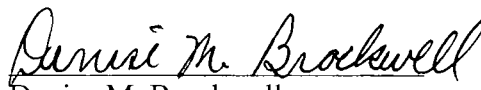
IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Civil Action No. 2017-CP-10-4530

**CERTIFICATE OF SERVICE**

I, Denise M. Brockwell, paralegal for Crowe LaFave, LLC, do hereby certify that I have served the **Defendants' Answer to Plaintiff's Complaint**, in the above-referenced matter, by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows:

D. Ellis Roberts, Esquire  
McLeod Law Group, LLC  
3 Morris Street, Suite A  
Charleston, SC 29403

  
Denise M. Brockwell  
Paralegal

September 25, 2017

FILED  
2017 SEP 28 PM 2:25  
JULIE J. AMES  
CLERK OF COURT

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September 25, 2017

The Honorable Julie J. Armstrong  
Clerk of Court for Charleston County  
100 Broad Street, #106  
Charleston, SC 29401

Re: Barbara Calkins v. Rebecca Adams and Peter Adams  
Civil Action No. 2017-CP-10-4530  
Claim No. 33950

Dear Ms. Armstrong:

Please find enclosed for filing an original and one copy the Defendants' Answer to Plaintiff's Complaint in the above-captioned action. Once filing is complete, I would appreciate you returning the clocked copy to us in the enclosed self-addressed, stamped envelope.

By copy of this letter to the attorney for Plaintiff, I am hereby serving a copy of this Answer upon Mr. Ellis.

Thanking you in advance, I am

Sincerely yours,

A handwritten signature in black ink that reads "Denise M. Brockwell". The signature is written in a cursive, flowing style.

Denise M. Brockwell  
Paralegal

/dmb  
Enclosure

cc: D. Ellis Roberts, Esquire  
Client/Carrier