

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

TOK COMMUNITY UMBRELLA )  
CORPORATION, )

Plaintiff, )

vs. )

TOK CHAMBER OF COMMERCE, )  
INC., )

Defendant. )

LISA CONRAD, )

Third-Party Plaintiff, )

vs. )

TOK COMMUNITY UMBRELLA )  
CORPORATION (TCUC), TANYA )  
TITO, THERESA WOODY, and )  
RHONDA VanZANDT, )

Third-Party Defendants. )

Case No. 4FA-15-1930 CI

ANSWER TO FIRST AMENDED COMPLAINT

Defendant Tok Community Umbrella Corporation ("TCUC"), answers Plaintiff  
Lisa Conrad's ("Conrad") First Amended Complaint as follows:

1. Paragraph 1 contains a legal conclusion to which no response is required.  
Insofar as paragraph 1 alleges facts, such facts are, upon information and belief, admitted.

1           2.       Paragraph 2 contains a legal conclusion to which no response is required.  
2       Admitted that Conrad is a Board Member of TCUC, elected at a properly noticed  
3       membership meeting held on April 16, 2015. To the extent paragraph 2 contains any  
4       allegations or inferences regarding the document provided as Exhibit A to the Complaint,  
5       the document speaks for itself. TCUC denies any allegations and/or characterization(s)  
6       of the document to the extent they are inconsistent with that document.

7           3.       TCUC's Articles of Incorporation are contained in a document that speaks  
8       for itself. TCUC denies any allegations or characterization(s) of TCUC's Articles of  
9       Incorporation to the extent such allegations or characterization(s) are inconsistent with  
10      that document.

11          4.       TCUC's Bylaws are contained in a document that speaks for itself. TCUC  
12      denies any allegations or characterization(s) of TCUC's Bylaws to the extent such  
13      allegations or characterization(s) are inconsistent with that document.

14          5.       Paragraph 5 contains legal conclusions to which no response is required.  
15      To the extent paragraph 5 contains any allegations or inferences regarding the document  
16      provided as Exhibit C to the Complaint, the document speaks for itself. TCUC denies  
17      any allegations and/or characterization(s) of the document to the extent they are  
18      inconsistent with that document. To the extent any further answer is required, TCUC  
19      denies the allegations contained in paragraph 5.

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1           6.       Paragraph 6 contains legal conclusions to which no response is required.  
2       To the extent an answer is required, TCUC denies the allegations.

3           7.       Paragraph 7 contains legal conclusions to which no response is required.  
4       Insofar as paragraph 7 contains any allegations or inferences regarding TCUC's Articles  
5       of Incorporation, the document containing such Articles speaks for itself. TCUC denies  
6       any allegations and/or characterization(s) of the document to the extent they are  
7       inconsistent with that document. To the extent any further answer is required, TCUC  
8       denies the allegations contained in paragraph 7.

9           8.       Admitted that, upon advice of counsel, TCUC's Board of Directors held an  
10      email vote regarding a motion made and discussed at an open Board meeting regarding  
11      the appointment of Tanya Tito. Admitted that such email vote was subsequently ratified  
12      by a majority of Directors at an open meeting. Any remaining allegations or inferences  
13      contained in paragraph 8 are denied.

14          9.       Paragraph 9 contains legal conclusions to which no response is required.  
15      To the extent an answer is required, TCUC denies the allegations.

16          10.      TCUC admits to the existence of a letter dated May 15, 2015 appearing to  
17      be signed by John Bristol, former member of TCUC's Board of Directors, to Attorney  
18      Wickwire purporting to terminate his services. Any remaining allegations or inferences  
19      contained in paragraph 10 are denied.

1           11.       Admitted that John Bristol resigned from the Board of TCUC. The  
2 remaining allegations and inferences contained in paragraph 11 are denied.

3           12.       Denied.

4           13.       Denied.

5           14.       Denied.

6           15.       Denied.

7           16.       On information and belief, TCUC admits a meeting was held on June 19,  
8 2015, to discuss the alleged charges against Theresa Woody, Rhonda VanZandt and  
9 Alvin Bates. TCUC lacks sufficient information to admit or deny whether the meeting  
10 was properly called and noticed, and therefore denies the allegation. The remaining  
11 allegations and inferences contained in paragraph 16 are denied.

12           17.       On information and belief, TCUC admits that during the aforementioned  
13 June 19, 2015 meeting: (a) a purported "trial" was held in connection with alleged  
14 charges against Theresa Woody, Rhonda VanZandt and Alvin Bates; (b) all three  
15 individuals were found guilty of the alleged charges; and (c) an investigative committee  
16 purported to remove Theresa Woody and Rhonda VanZandt from the board. The  
17 remaining allegations and inferences contained in paragraph 17 are denied.

18           18.       On information and belief, TCUC admits an election occurred on July 9,  
19 2015. TCUC denies that any member allegedly elected at that election is a properly  
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1 seated member of the TCUC board. The remaining allegations and inferences contained  
2 in paragraph 18 are denied.

3 GENERAL DENIAL

4 All allegations in Conrad's Complaint not expressly admitted herein are denied.

5 AFFIRMATIVE AND OTHER DEFENSES

6 1. Conrad's Complaint and the claims therein fail in whole or in part to state a  
7 claim for which relief may be granted.

8 2. Certain claims asserted and/or relief sought by Conrad's Complaint is not  
9 appropriate to be litigated in connection with an eviction proceeding against a third party.

10 3. Conrad is not a proper party to the eviction action and does not present any  
11 factual allegations which cannot be asserted as a defense by the Chamber of Commerce.  
12 She has no personal interest in the eviction dispute because she cannot be held personally  
13 liable for any corporate action that she voted against. To the extent Conrad seeks to  
14 pursue corporate claims and further relief against TCUC, such claims should be litigated  
15 separate and apart from the eviction action.

16 4. Relief sought by Conrad's Complaint is not permissible under the Alaska  
17 Nonprofit Corporation Act and/or TCUC's governing documents.

18 5. Relief sought by Conrad's Complaint is not proper or appropriate in light of  
19 the allegations presented therein.

1           6. Conrad's actions and Complaint are in violation of her fiduciary duty to  
2 TCUC.

3           7. In contrast to statutory provisions for removal of directors of for-profit  
4 corporations, there is no provision in the Alaska Nonprofit Corporations Act or the  
5 TCUC Bylaws allowing for removal of a TCUC director by judicial action. Theresa  
6 Woody, Rhonda Van Zandt and Tanya Tito remain validly seated directors of TCUC  
7 whose authority cannot be removed by the Court based upon the claims and allegations  
8 currently before it.

9           8. Conrad's Complaint places her in a position directly adverse to the  
10 Corporation thereby impeding her duty of loyalty to the corporation and precluding her  
11 from taking action on behalf of the Corporation that may in any way impact its finances  
12 or defense of this lawsuit.

13           9. Conrad's Complaint is barred in whole or in part by the doctrines of waiver,  
14 ratification and/or estoppel.

15           10. Conrad's Complaint is barred by the doctrine of unclean hands.

16           11. Conrad's Complaint is barred in whole or in part because the acts and/or  
17 omissions of TCUC and its Directors were at all relevant times in good faith, in the  
18 exercise of its reasonable business judgment, for good cause, and for legitimate business  
19 purposes and/or necessity, and therefore, privileged.  
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1           12. Conrad's Complaint fails in whole or in part because the acts and/or  
2 omissions of TCUC and its Directors were conducted pursuant to advice of counsel.

3           13. After the Board voted to evict TCUC, Conrad engaged in ultra vires actions  
4 to prevent the eviction without Board approval.

5           14. As a Director of TCUC, Conrad owes strict fiduciary duties to TCUC.  
6 Conrad is required to act at all times honestly and in good faith with a view to the best  
7 interests of TCUC and to exercise the care, diligence, and skill that a reasonably prudent  
8 person would exercise in comparable circumstances.

9           15. Conrad's attempt to enjoin or preclude the eviction proceedings provides no  
10 benefit to TCUC and is in violation of her fiduciary duties of loyalty and care to the  
11 corporation.

12           16. Conrad has further engaged in misconduct by encouraging and supporting  
13 unlawful proceedings to improperly remove other directors from the Board of TCUC who  
14 disagree with her position regarding TCUC's eviction action against the Chamber of  
15 Commerce.

16           17. Conrad has failed to fulfill her obligations to TCUC, and breached her  
17 duties to TCUC in various ways, including interfering with the eviction proceeding and  
18 interfering with the rights of members and other directors.

19           18. The TCUC Policy on Disciplinary & Board Removal Procedures ("the  
20 Policy") is invalid.

19. Proper procedures to remove TCUC Board members pursuant to TCUC's Bylaws were not followed.

20. Any election held on July 9, 2015, to fill the alleged “vacant board seats” was invalid. The individuals allegedly elected on July 9, 2015, are not properly elected members of the TCUC board.

21. TCUC reserves the right to assert such defenses, affirmative defenses and counterclaims as may be disclosed to it during the course of discovery herein and in the time permitted by law.

### PRAYER FOR RELIEF

WHEREFORE TCUC prays for judgment as follows:

1. For entry of judgment dismissing Lisa Conrad's Complaint in its entirety with prejudice;

2. For entry of an order requiring Lisa Conrad to recuse herself from taking action on behalf of the Corporation involving corporate finances or other matters that may in any way impact or affect TCUC's defense of this lawsuit for so long as it is pending;

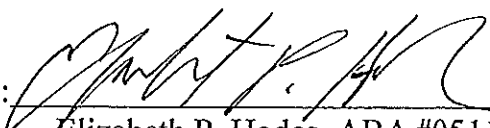
3. That TCUC be awarded all of its actual costs, expenses and attorneys' fees incurred in defending against the same; and

4. For such other and further relief as the Court deems just and equitable.



1 DATED this 20<sup>th</sup> day of July, 2015.

2 DAVIS WRIGHT TREMAINE LLP  
3 Attorneys for Tok Community Umbrella  
4 Corporation

5 By:   
6 Elizabeth P. Hodes, ABA #0511108

7 Certificate of Service

8 On the 20<sup>th</sup> day of July, 2015, a true and  
9 correct copy of the foregoing document was sent  
10 by

11 ☒ U.S. Mail, postage paid  
12 ☐ Facsimile  
13 ☐ Email

14 to the following parties:

15 Zane D. Wilson  
16 Cook Schuhmann & Groseclose, Inc.  
17 (714 Fourth Ave., Ste. 200)  
18 P.O. Box 70810  
19 Fairbanks, AK 99707-0810

20 Heidi M. Holmes  
21 Burns & Associates, PC  
100 Cushman St., Ste. 311  
Fairbanks, AK 99701

By:   
Debra Anderson