

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**M. KATHLEEN MCKINNEY,
Regional Director of Region 15 of the
National Labor Relations Board, for and on behalf of
NATIONAL LABOR RELATIONS BOARD**

PETITIONER

VS. CASE NO. 4:15-CV-00367-BSM

THE RETZER GROUP, INC.

RESPONDENT

**RESPONSE TO PETITION FOR INJUNCTION PURSUANT TO
SECTION 10(J) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED**

Comes **The Retzer Group, Inc.**, (hereinafter referred to as “**Retzer**”) by and through its attorneys, **Ramsay, Bridgforth, Robinson and Raley LLP**, and for its response to the petition for injunction pursuant to Section 10(j) of the National Labor Relations Act, as amended, states:

1. Retzer admits paragraph 1 of the petition.
2. Retzer admits paragraph 2 of the petition.
3. Retzer admits it is a corporation doing business in Little Rock at 701 South Broadway, same being a McDonald’s restaurant. The remaining portions of paragraph 3 of the petition are denied.
4. Retzer admits Mid-South Organizing Committee filed charges making various allegations as alleged in paragraph 4 of the petition, but denies that any of the allegations have any merit or are factually accurate. Retzer denies that that MSOC is a union, a labor organization as defined by the National Labor Relations Act, or a “person” as defined by the NLRA, denies that the MSOC is authorized to represent or file charges in behalf of any Retzer employees, and that the

allegations in the charges filed should be dismissed based on the fact the MSOC has no standing to file the charges.

5. Retzer admits paragraph 5 of the petition.
6. Retzer admits paragraph 6 of the petition in part. Retzer denies there is any merit to the charges and submits based on conflicting evidence and factual disputes, the Regional Director determined that those factual disputes could not be resolved and thus issued the complaint so an Administrative Law Judge could hear the claims, Retzer's evidence, and make factual determinations based on the evidence presented at a hearing where Retzer would have the opportunity to cross examine the witnesses that claim the NLRA has been violated and to present its own evidence. The remaining allegations in paragraph 6 are admitted.
7. Retzer admits paragraph 7 of the petition in part. Retzer affirmatively pleads the Regional Director found there were factual disputes that could not be resolved and thus issued the complaint so an ALJ could hear the evidence and make factual findings, allowing Retzer due process of law. The remaining allegations in paragraph 7 are admitted.
8. Retzer admits paragraphs 8 and 9 of the petition.
9. Retzer denies that there was any further investigation of charges as alleged in paragraph 10 of the petition prior to issuance of the Consolidated complaint mentioned. The remaining allegations in paragraph 10 are admitted.
10. Retzer denies the allegations in paragraph 11 and its subparts, except for the allegation that Retzer is an employer covered by the NLRA and Retzer admits the allegations in subparagraphs a, b, c, and k.
11. Retzer denies the allegations in paragraph 12.

12. Retzer denies the allegations in paragraph 13 and its subparts.
13. Retzer denies the allegations in paragraph 14 of the petition.
14. Retzer denies the allegations in paragraph 15 of the petition.
15. Retzer denies the allegations in paragraph 16 of the petition.
16. Retzer denies the allegations in paragraph 17 of the petition.
17. Retzer denies the allegations in paragraph 18 of the petition.
18. Retzer denies the allegations in paragraphs 19 and 20 of the petition.
19. Retzer denies each and every allegation of the petition not specifically admitted herein.
20. Retzer denies that the petitioner is entitled to any of the relief sought in her prayer for relief.
21. Retzer affirmatively pleads that the MSOC is not a proper party to file charges in behalf of Retzer employees with the NLRB, that no Retzer employee has authorized the MSOC to file charges in their behalf or to represent them as a labor organization, that MSOC is not a union, and, since that is the case, the charges should have been dismissed by the Board.
22. Retzer affirmatively pleads Kevin Harris was terminated for actions on his part that the NLRB has ruled for over thirty years are not protected activity and are a legitimate basis for termination.
23. Retzer affirmatively pleads that the petitioner by requesting Harris be reinstated pending the administrative process currently underway with a hearing scheduled on July 27, 2015, ignores the fact that if Harris is successful, he will be reinstated with full back pay. There is no irreparable harm to Harris.

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24. Retzer affirmatively pleads that the petitioner has no evidence of any current ongoing alleged violations by Retzer that need be enjoined by the court.
25. Retzer affirmatively pleads no employee has been terminated for any protected activity, threatened, coerced, given more onerous tasks, been the subject of surveillance, or otherwise had any rights protected by the NLRA violated.
26. Retzer affirmatively pleads that there has been no union activity seeking representation and/or unionization of any of its employees to Retzer's knowledge at its Little Rock location, only that certain employees participated in a public demonstration with many non employees in the form of a march on Broadway avenue in Little Rock on two occasions in 2014 for the purpose of supporting the Fight for Fifteen political effort of the MSOC. All of those employees who participated returned to work, including Kevin Harris. The MSOC is a non-profit community organization, not a union, that supports a political goal of raising the minimum wage. The affidavits of Lauren Bonds and Shawnte Poynter, attached to the petition, make this clear.

WHEREFORE, Retzer Group prays that the petition be denied.

Respectfully submitted,

/s/ Spencer F. Robinson
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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of July, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/EMF system, which shall send notification of such filing to the following:

Ms. Jacqueline Rau
National Labor Relations Board
Region 15
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Little Rock, AR 72201-3453

/s/ Spencer F. Robinson
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