

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1. General Civil
- 2. Administrative Review/Social Security
- 3. Habeas Corpus Death Penalty

\*If under Title 28, §2255, name the SENTENCING JUDGE:

CASE NUMBER:

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is **RELATED** to another **PENDING** civil case. This action is **REFILED** pursuant to **LR 3.1**.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

**COUNTY:**

**Corporation** For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

**COUNTY:**

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

**COUNTY:**

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

**EASTERN DIVISION**

- AKRON** (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
- CLEVELAND** (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
- YOUNGSTOWN** (Counties: Columbiana, Mahoning and Trumbull)

**WESTERN DIVISION**

- TOLEDO** (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

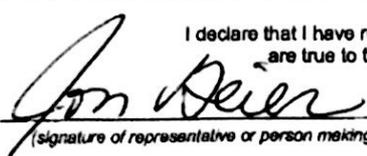
## EXHIBIT 1

FORM NLRB-501  
(2-18)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 8-CA-224137	Date Filed 7/23/18

## INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Hercules Fire Protection	b. Tel. No. 440-748-3778
	c. Cell No. 702-629-8762
	f. Fax. No. 440-629-9039
d. Address (Street, city, state, and ZIP code) 35478 Lorain Road North Ridgeville, OH 44039	e. Employer Representative David Ritchey
	g. e-mail djritchey@herculesfire.com
	h. Number of workers employed 12
i. Type of Establishment (factory, mine, wholesaler, etc.) Construction Contractor	j. Identify principal product or service Installation and service of Fire Protection systems
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and those unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Shortly before and immediately after David Ritchey discovered that his employees were seeking representation by the Ohio State Association Plumbers and Pipefitters, he fired Clayton Jenkins and Jason Herget on July 12 and 13, 2018. The day that he received an Organizing Committee letter identifying Jacob Tenney and Josh Kirk as committee members, Richey fired Tenney. Other employees were immediately subject to other unlawful acts such as: interrogation about their union activities, undeserved suspensions, being improperly reported to the local police and told by Richey that he would close the door before going union. Given the multiple hallmark violations committed by Richey once he discovered his employees sought representation by the Ohio State Association of Plumbers and Pipefitters, 10 (j) injunctive relief is requested.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) The Ohio State Association of Plumbers and Pipefitters	
4a. Address (Street and number, city, state, and ZIP code) 947 Goodale Blvd., Suite 209 Columbus, OH 43212-3824	4b. Tel. No. 440-409-7375
	4c. Cell No. 216-403-3728
	4d. Fax No.
	4e. e-mail jon@ohiopipetrades.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the US and Canada	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
 (signature of representative or person making charge)	Jon Geier, Union Organizer (Print type name and title or office, if any)
Address P.O.Box 34002 Parma, OH 44143	Tel. No. same
Date 7/19/2018	Office, if any, Cell No. same
	Fax No. same
	e-mail same

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)  
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

EXHIBIT 2

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**AMENDED CHARGE AGAINST EMPLOYER**

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-224137	7/24/18

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

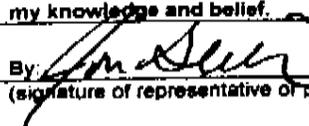
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer <b>Hercules Fire Protection &amp; Plumbing, LLC</b>		b. Tel. No. <b>440-748-3778</b>
d. Address (street, city, state ZIP code) <b>35478 Lorain Road North Ridgeville, OH 44039</b>		c. Cell No. <b>702-629-8762</b>
e. Employer Representative <b>David Ritchey</b>		f. Fax No.
i. Type of Establishment (factory, nursing home, hotel) <b>Construction Contractor</b>		g. e-Mail <b>djritchey@herculesfire.com</b>
j. Principal Product or Service <b>Fire Protection Services</b>		h. Dispute Location (City and State) <b>North Ridgeville, OH</b>
		k. Number of workers at dispute location <b>12</b>
l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  <b>See Attached.</b>		

3. Full name of party filing charge (if labor organization, give full name, including local name and number)  
**The Ohio State Association of Plumbers and Pipefitters**

4a. Address (street and number, city, state, and ZIP code) <b>947 Goodale Blvd, Suite 209 Columbus, Ohio 43212</b>		4b. Tel. No. <b>440-409-7375</b>
		4c. Cell No. <b>216-403-3728</b>
		4d. Fax No.
		4e. e-Mail <b>jon@ohiopipetrades.com</b>

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)  
**United Association of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry of the United States, Canada**

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. <b>440-409-7375</b>
By:  (signature of representative of person making charge)	<b>Jon Geler</b> Print Name and Title	Office, if any, Cell No. <b>216-403-3728</b>
Address: <b>PO Box 34002, Parma, OH 44143</b>	Date:	Fax No.
		e-Mail <b>jon@ohiopipetrades.com</b>

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**ATTACHMENT**

Since or about July 16, 2018, Employer, through its officers, agents and representatives, has interfered with, restrained and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, which are guaranteed in Section 7 of the Act. Employer's acts include, but are not limited to,

1. making a false report to the North Ridgeville Police Department about Clayton Jenkins because of his membership in the Ohio State Association of the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industries, AFL-CIO (Union);
2. threatening to close the business because of Union activities;
3. interrogating employees about their Union membership or activities, including Josh Kirk on July 17, 2018;
4. on or about July 12, 2018, terminating the employment of Clayton Jenkins because of his membership in the Union, and at all times since that date refusing to employ Jenkins;
5. on or about July 13, 2018, terminating the employment of Jason Herget because of his membership in the Union, and at all times since that date refusing to employ Herget;
6. on or about July 14, 2018, suspending the employment of Breann Schneider because of her membership in the Union;
7. on or about July 17, 2018, terminating the employment of Jacob Tenney because of his membership in the Union, and at all times since that date refusing to employ Tenney;
8. on or about July 17, 2018, disciplining Josh Kirk over his taking a work break because of his membership in the Union; and
9. on or about July 17, 2018, by assigning him to work three hours away, constructively discharging Josh Kirk because of his membership in the Union, and at all times since that date refusing to employ Kirk.

By the acts set forth in the paragraphs above and by other acts and conduct, Employer, by its officers, agents and representatives, has interfered with, restrained, and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act.

Charging Party requests injunctive relief under Section 10(j).

EXHIBIT 3

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**SECOND AMENDED CHARGE AGAINST EMPLOYER**

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-224137	8-8-18

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer <b>Hercules Fire Protection &amp; Plumbing, LLC</b>		b. Tel. No. <b>440-748-3778</b>
d. Address (street, city, state ZIP code) <b>35478 Lorain Road North Ridgeville, OH 44039</b>		c. Cell No. <b>702-629-8762</b>
e. Employer Representative <b>David Ritchey</b>		f. Fax No.
i. Type of Establishment (factory, nursing home, hotel) <b>Construction Contractor</b>		g. e-Mail <b>djritchey@herculesfire.com</b>
j. Principal Product or Service <b>Fire Protection Services</b>		h. Dispute Location (City and State) <b>North Ridgeville, OH</b>
		k. Number of workers at dispute location <b>12</b>

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

See Attached.

**3. Full name of party filing charge (if labor organization, give full name, including local name and number)**

**The Ohio State Association of Plumbers and Pipefitters**

4a. Address (street and number, city, state, and ZIP code) <b>947 Goodale Blvd, Suite 209 Columbus, Ohio 43212</b>		4b. Tel. No. <b>440-409-7375</b>
		4c. Cell No. <b>216-403-3728</b>
		4d. Fax No.
		4e. e-Mail <b>jon@ohiopipetrades.com</b>

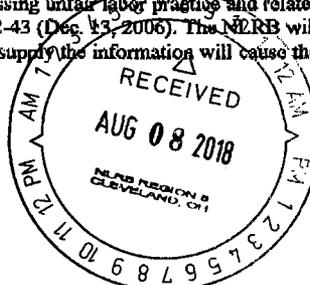
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)  
**United Association of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry of the United States, Canada**

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. <b>440-409-7375</b>
By: <i>Jon Geier</i> (signature of representative or person making charge)	Jon Geier Print Name and Title	Office, if any, Cell No. <b>216-403-3728</b>
Address: PO Box 34002, Parma, OH 44143	Date:	Fax No.
		e-Mail <b>jon@ohiopipetrades.com</b>

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. 1-2153720031





**ATTACHMENT**

Since or about July 16, 2018, Employer, through its officers, agents and representatives, has interfered with, restrained and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, which are guaranteed in Section 7 of the Act. Employer's acts include, but are not limited to,

1. making a false report to the North Ridgeville Police Department about Clayton Jenkins because of his membership in the Ohio State Association of the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industries, AFL-CIO (Union) or Union activities;
2. threatening to close the business because of Union activities;
3. interrogating employees about their Union membership or activities, including Josh Kirk on July 17, 2018;
4. on or about July 12, 2018, terminating the employment of Clayton Jenkins because of his membership in the Union or Union activities, and at all times since that date refusing to employ Jenkins;
5. on or about July 13, 2018, terminating the employment of Jason Herget because of his membership in the Union or Union activities, and at all times since that date refusing to employ Herget;
6. on or about July 14, 2018, suspending the employment of Breann Schneider because of her membership in the Union and/or Union activities;
7. on or about July 17, 2018, terminating the employment of Jacob Tenney because of his membership in the Union and/or Union activities, and at all times since that date refusing to employ Tenney;
8. on or about July 17, 2018, disciplining Josh Kirk over his taking a work break because of his membership in the Union and/or Union activities;
9. on or about July 17, 2018, assigning Josh Kirk more onerous work in requiring him to work at a distant location because of his membership in the Union and/or Union activities;
10. on or about July 17, 2018, by assigning him to work three hours away, constructively discharging Josh Kirk because of his membership in the Union and/or Union activities, and at all times since that date refusing to employ Kirk.

By the acts set forth in the paragraphs above and by other acts and conduct, Employer, by its officers, agents and representatives, has interfered with, restrained, and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act.

Charging Party requests injunctive relief under Section 10(j).

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**THIRD AMENDED CHARGE AGAINST EMPLOYER**

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-224137	9/21/18

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer <b>Hercules Fire Protection &amp; Plumbing, LLC</b>		b. Tel. No. <b>440-748-3778</b>
d. Address (street, city, state ZIP code) <b>35478 Lorain Road North Ridgeville, OH 44039</b>		c. Cell No. <b>702-629-8762</b>
e. Employer Representative <b>David Ritchey</b>		f. Fax No.
i. Type of Establishment (factory, nursing home, hotel) <b>Construction Contractor</b>		g. e-Mail <b>djritchey@herculesfire.com</b>
j. Principal Product or Service <b>Fire Protection Services</b>		h. Dispute Location (City and State) <b>North Ridgeville, OH</b>
		k. Number of workers at dispute location <b>12</b>

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

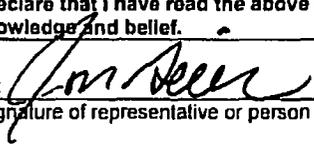
**See Attached.**

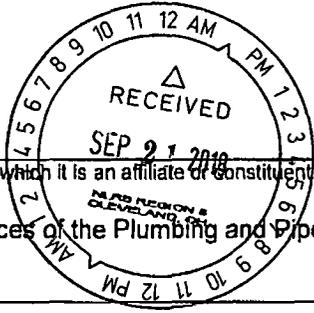
**3. Full name of party filing charge (if labor organization, give full name, including local name and number)**  
**The Ohio State Association of Plumbers and Pipefitters**

4a. Address (street and number, city, state, and ZIP code) <b>947 Goodale Blvd, Suite 209 Columbus, Ohio 43212</b>		4b. Tel. No. <b>440-409-7375</b>
		4c. Cell No. <b>216-403-3728</b>
		4d. Fax No.
		4e. e-Mail <b>jon@ohiopipetrades.com</b>

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)  
**United Association of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry of the United States, Canada**

6. DECLARATION  
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By:  (signature of representative or person making charge)	Jon Geier Print Name and Title	Tel. No. <b>440-409-7375</b>
Address: PO Box 34002, Parma, OH 44143	Date:	Office, if any, Cell No. <b>216-403-3728</b>
		Fax No.
		e-Mail <b>jon@ohiopipetrades.com</b>



WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. 1-2153720031



**ATTACHMENT**

Since or about July 16, 2018, Employer, through its officers, agents and representatives, has interfered with, restrained and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, which are guaranteed in Section 7 of the Act. Employer's acts include, but are not limited to,

1. making a false report to the North Ridgeville Police Department about Clayton Jenkins because of his membership in the Ohio State Association of the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industries, AFL-CIO (Union) or union activities or protected concerted activities;
2. threatening to close the business because of Union activities;
3. interrogating employees about their Union membership and/or Union activities, including Josh Kirk on July 17, 2018;
4. on or about July 12, 2018, terminating the employment of Clayton Jenkins because of his Union membership and/or Union activities, and at all times since that date refusing to employ Jenkins;
5. on or about July 13, 2018, terminating the employment of Jason Herget because of his Union membership and/or Union activities, and at all times since that date refusing to employ Herget;
6. on or about July 17, 2018, terminating the employment of Jacob Tenney because of his Union membership and/or Union activities, and at all times since that date refusing to employ Tenney;
7. on or about July 17, 2018, disciplining Josh Kirk over his taking a work break because of his Union membership and/or Union activities;
8. on or about July 17, 2018, engaging in unlawful surveillance and/or creating the impression of unlawful surveillance of Josh Kirk while he engaged in union and/or protected concerted activities;
9. on or about July 17, 2018, assigning Josh Kirk more onerous work in requiring him to work at a distant location because of his Union membership and/or Union activities;
10. on or about July 17, 2018, by assigning him to work three hours away, constructively discharging Josh Kirk because of his Union membership and/or Union activities, and at all times since that date refusing to employ Kirk.

By the acts set forth in the paragraphs above and by other acts and conduct, Employer, by its officers, agents and representatives, has interfered with, restrained, and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act.

Charging Party requests injunctive relief under Section 10(j).

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**FOURTH AMENDED CHARGE AGAINST EMPLOYER**

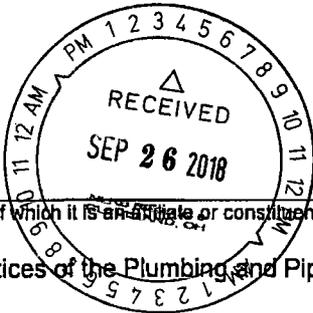
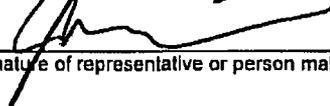
INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-224137	9/26/18

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer <b>Hercules Fire Protection &amp; Plumbing, LLC</b>		b. Tel. No. <b>440-748-3778</b>
d. Address (street, city, state ZIP code) <b>35478 Lorain Road North Ridgeville, OH 44039</b>		c. Cell No. <b>702-629-8762</b>
e. Employer Representative <b>David Ritchey</b>		f. Fax No.
i. Type of Establishment (factory, nursing home, hotel) <b>Construction Contractor</b>		g. e-Mail <b>dritchey@herculesfire.com</b>
j. Principal Product or Service <b>Fire Protection Services</b>		h. Dispute Location (City and State) <b>North Ridgeville, OH</b>
		k. Number of workers at dispute location <b>12</b>
1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  <b>See Attached.</b>		

3. Full name of party filing charge (if labor organization, give full name, including local name and number) <b>The Ohio State Association of Plumbers and Pipefitters</b>	
4a. Address (street and number, city, state, and ZIP code) <b>947 Goodale Blvd, Suite 209 Columbus, Ohio 43212</b>	4b. Tel. No. <b>440-409-7375</b>
	4c. Cell No. <b>216-403-3728</b>
	4d. Fax No.
	4e. e-Mail <b>jon@ohiopipetrades.com</b>
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) <b>United Association of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry of the United States, Canada</b>	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	Tel. No. <b>440-409-7375</b>
By:  (signature of representative or person making charge)	Office, if any, Cell No. <b>216-403-3728</b>
Jon Geler Print Name and Title	Fax No.
Address: PO Box 34002 Parma, OH 44134	e-Mail <b>jon@ohiopipetrades.com</b>
Date: <b>9-26-18</b>	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request.

Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. 1-2153720031

### ATTACHMENT

Since or about July 16, 2018, Employer, through its officers, agents and representatives, has interfered with, restrained and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, which are guaranteed in Section 7 of the Act. Employer's acts include, but are not limited to,

1. making a false report to the North Ridgeville Police Department about Clayton Jenkins because of his membership in the Ohio State Association of the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industries, AFL-CIO (Union) or union activities or protected concerted activities;
2. threatening to close the business because of Union activities;
3. interrogating employees about their Union membership and/or Union activities, including Josh Kirk on July 17, 2018;
4. on or about July 12, 2018, terminating the employment of Clayton Jenkins because of his Union membership and/or Union activities, and at all times since that date refusing to employ Jenkins;
5. on or about July 13, 2018, terminating the employment of Jason Herget because of his Union membership and/or Union activities, and at all times since that date refusing to employ Herget;
6. on or about July 17, 2018, terminating the employment of Jacob Tenney because of his Union membership and/or Union activities, and at all times since that date refusing to employ Tenney;
7. on or about July 17, 2018, disciplining Josh Kirk over his taking a work break because of his Union membership and/or Union activities;
8. on or about July 17, 2018, engaging in unlawful surveillance and/or creating the impression of unlawful surveillance of Josh Kirk while he engaged in union and/or protected concerted activities;
9. on or about July 17, 2018, assigning Josh Kirk more onerous work in requiring him to work at a distant location because of his Union membership and/or Union activities;
10. on or about July 17, 2018, by assigning him to work three hours away, constructively discharging Josh Kirk because of his Union membership and/or Union activities, and at all times since that date refusing to employ Kirk.

By the acts set forth in the paragraphs above and by other acts and conduct, Employer, by its officers, agents and representatives, has interfered with, restrained, and coerced and is interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act.

Charging Party requests injunctive relief under Section 10(j).

Charging Party requests the issuance of a Gissel bargaining order.

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EXHIBIT 6

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**HERCULES FIRE PROTECTION &  
PLUMBING, LLC**

**and**

**CASE 08-CA-224137**

**THE OHIO STATE ASSOCIATION OF  
PLUMBERS AND PIPEFITTERS, UNITED  
ASSOCIATION OF JOURNEYMAN AND  
APPRENTICES OF THE PLUMBING AND  
PIPEFITTING INDUSTRY OF THE UNITED  
STATES AND CANADA**

**COMPLAINT AND NOTICE OF HEARING**

This Complaint and Notice of Hearing is based on a charge filed by The Ohio State Association of Plumbers and Pipefitters, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Hercules Fire Protection & Plumbing, LLC (Respondent) has violated the Act as described below.

1. (A) The charge in this proceeding was filed by the Union on July 23, 2018 and a copy was served on Respondent by U.S. mail on July 23, 2018.

(B) The first amended charge in this proceeding was filed by the Union on July 24, 2018, and a copy was served on Respondent by U.S. mail on July 24, 2018.

(C) The second amended charge in this proceeding was filed by the Union on August 8, 2018, and a copy was served on Respondent by U.S. mail on August 8 2018.

(D) The third amended charge in this proceeding was filed by the Union on September 21, 2018, and a copy was served on Respondent by U.S. mail on September 21, 2018.

(E) The fourth amended charge in this proceeding was filed by the Union on September 26, 2018, and a copy was served on Respondent by U.S. mail on September 27, 2018.

2. (A) At all material times, Respondent has been an Ohio limited liability corporation with an office and place of business in North Ridgeville, Ohio (Respondent's facility), and has been engaged in the plumbing and installation of commercial automatic fire sprinkler systems.

(B) Annually, Respondent, in conducting its business operations described above in paragraph 2(A), purchases and receives at its North Ridgeville, Ohio facility products, goods and material valued in excess of \$50,000 directly from points located outside the State of Ohio.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. (A) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Mark Ritchey	--	Co-Owner and President
David Ritchey	–	Co-Owner and Chief Executive Officer
Tamara Nasharallah	–	Office Manager

Dan Betlejewski	–	Plumber --Supervisor
Alex Gates	–	Fitter/Plumber -- Supervisor
Jacob Matesic	–	Fitter -- Supervisor
Ryan Beaune	–	Fitter -- Acting Supervisor (April 27, 2018 – June 29, 2018)

6. About July 16, 2018, Respondent, by Nasharallah, made a complaint to the North Ridgeville Police Department containing false information that an employee failed to timely return company work tools after his employment was terminated.

7. About July 17, Respondent, by David Ritchey, at a jobsite in Medina, Ohio:

(A) Interrogated an employee about the employee's union membership, activities, and sympathies and the union membership, activities, and sympathies of other employees.

(B) Threatened an employee with business closure if employees selected the Union to represent employees for purposes of collective-bargaining.

(C) Coercively observed an employee talking to another employer's employees, limited the discussion between the employee and the other workers by directing the employee to return to work prior to the end of the employee's work break and created an impression among its employees that their union activities were under surveillance by Respondent.

8. (A) About July 12, 2018, Respondent discharged its employee Clayton Jenkins.

(B) About July 13, 2018, Respondent discharged its employee Jason Herget.

(C) About July 17, 2018, Respondent discharged its employee Jacob Tenney.

(D) (1) About July 17, 2018, Respondent issued an oral warning to its employee Joshua Kirk.

(2) About July 17, 2018, Respondent imposed more onerous terms and conditions of employment on its employee Joshua Kirk by assigning Kirk to perform a one week out-of-area work assignment that required overnight stays.

(3) About July 19, 2018, Respondent, by the conduct described in paragraphs 8(D)(1) and 8(D)(2), caused the termination of its employee Joshua Kirk.

(E) Respondent engaged in the conduct described above in paragraphs 8(A) through 8(D), including their subparagraphs, because the named employees of Respondent formed, joined and/or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(F) In the alternative, Respondent engaged in the conduct described above in paragraphs 8(A) and 8(B) because Respondent believed the named employees of Respondent formed, joined and/or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

9. By the conduct described above in paragraphs 6 and 7, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

10. By the conduct described above in paragraph 8, including its subparagraphs, Respondent has been discriminating in regard to the hire, tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

11. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs 6 through 8 of the Complaint, the General Counsel seeks an Order requiring that Respondent, at a meeting or meetings that maximizes employees' attendance, have Respondent's co-owner and chief executive officer David Ritchey read the notice to employees in English on working time in the presence of a Board Agent.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before November 13, 2018, or postmarked on or before November 11, 2018.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf

document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT** on the 18<sup>th</sup> day of December 2018, at 10:00 a.m., in a hearing room of the National Labor Relations Board, 1695 AJC Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cleveland, Ohio this 30<sup>th</sup> day of October 2018.

/s/ Allen Binstock

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ALLEN BINSTOCK  
REGIONAL DIRECTOR, REGION 8  
NATIONAL LABOR RELATIONS BOARD  
REGION 08  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

Attachments

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 08-CA-224137

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

David Ritchey  
Hercules Fire Protection and Plumbing LLC  
35478 Lorain Rd  
North Ridgeville, OH 44039-4461

Michael Holmes, Labor Relations Specialist  
Burdzinski & Partners, Inc.  
2393 Hickory Bark Dr  
Dayton, OH 45458-9424

The Ohio State Association of Plumbers and  
Pipefitters  
947 Goodale Blvd Ste 209  
Columbus, OH 43212-3824

Cyndi Sauter, Labor Relations Rep.  
Burdzinski & Partners Inc.  
2393 Hickory Bark Dr.  
Dayton, OH 45458-9424

Jon Geier, Union Organizer  
The Ohio State Association of Plumbers and  
Pipefitters  
P. O. Box 34002  
Parma, OH 44143

Robert P. Curley, Esq.  
O'Donoghue and O'Donoghue LLP  
325 Chestnut Street, Suite 515  
Philadelphia, PA 19106-2603

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

EXHIBIT 7

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**HERCULES FIRE PROTECTION AND  
PLUMBING, LLC**

**and**

**Case 08-CA-224137**

**THE OHIO STATE ASSOCIATION OF  
PLUMBERS AND PIPEFITTERS**

**ORDER RESCHEDULING HEARING**

**IT IS HEREBY ORDERED** that the hearing in the above-entitled matter is rescheduled from the 18<sup>th</sup> day of December 2018, at 10:00 a.m., to the 17<sup>th</sup> day of December at 1:00 p.m. in a hearing room located at 1240 East 9<sup>th</sup> Street, Room 1695, Cleveland, Ohio. The hearing will continue on consecutive days until concluded.

Dated at Cleveland, Ohio this 8<sup>th</sup> day of November 2018.



---

ALLEN BINSTOCK  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 08  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**HERCULES FIRE PROTECTION AND  
PLUMBING, LLC**

**and**

**Case 08-CA-224137**

**THE OHIO STATE ASSOCIATION OF  
PLUMBERS AND PIPEFITTERS**

**AFFIDAVIT OF SERVICE OF ORDER RESCHEDULING HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 8, 2018, I served the above-entitled document(s) by **regular mail** upon the following persons, addressed to them at the following addresses:

David Ritchey  
Hercules Fire Protection and Plumbing LLC  
35478 Lorain Rd  
North Ridgeville, OH 44039-4461

Cyndi Sauter , Labor Relations Rep.  
Burdzinski & Partners Inc.  
2393 Hickory Bark Dr.  
Dayton, OH 45458-9424

Bud Burdzinski II, Esq.  
Burdzinski & Partners, Inc.  
2393 Hickory Bark Dr  
Centerville, OH 45458-9424

Michael Holmes , Labor Relations Specialist  
Burdzinski & Partners, Inc.  
2393 Hickory Bark Dr  
Dayton, OH 45458-9424

Jon Geier , Union Organizer  
The Ohio State Association of  
Plumbers and Pipefitters  
P. O. Box 34002  
Parma, OH 44143

Robert P. Curley , Esquire  
O'Donoghue and O'Donoghue LLP  
325 Chestnut Street, Suite 515  
Philadelphia, PA 19106-2603

The Ohio State Association of  
Plumbers and Pipefitters  
947 Goodale Blvd STE 209  
Columbus, OH 43212-3824

November 8, 2018

\_\_\_\_\_  
Date

Kim Wallace, Designated Agent of NLRB

\_\_\_\_\_  
Name

/s/ Kim Wallace

\_\_\_\_\_  
Signature

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**HERCULES FIRE PROTECTION &  
PLUMBING, LLC**

**and**

**CASE 08-CA-224137**

**THE OHIO STATE ASSOCIATION OF  
PLUMBERS AND PIPEFITTERS, UNITED  
ASSOCIATION OF JOURNEYMAN AND  
APPRENTICES OF THE PLUMBING AND  
PIPEFITTING INDUSTRY OF THE UNITED  
STATES AND CANADA**

**AMENDMENT TO COMPLAINT**

Pursuant to Section 102.17 of the Rules and Regulations of the National Labor Relations Board (the Board), Paragraph 5(A) of the Complaint and Notice of Hearing that issued on October 30, 2018 is amended as follows:

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Mark Ritchey	--	Co-Owner and President
David Ritchey	–	Co-Owner and Chief Executive Officer
Tamara Nasharallah	–	Office Manager
Dan Betlejewski	–	Plumber -- Supervisor
Alex Gates	–	Fitter/Plumber -- Supervisor
Jacob Matesic	–	Fitter – Supervisor

Ryan Beaune	–	Fitter -- Acting Supervisor (April 27, 2018 – June 29, 2018)
Curt Dunham	--	Fitter -- Supervisor

**RESPONDENT IS FURTHER NOTIFIED** that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Respondent shall file with the undersigned an original and three (3) copies of an answer to the above amendment to complaint. The answer must be **received by this office on or before December 10, 2018, or postmarked on or before December 8, 2018.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be electronically filed through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative of the represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that

such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of the electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the amendment to complaint are true.

Dated at Cleveland, Ohio this 26<sup>th</sup> day of November 2018.

/s/ Allen Binstock

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ALLEN BINSTOCK  
REGIONAL DIRECTOR, REGION 8  
NATIONAL LABOR RELATIONS BOARD  
REGION 08  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 08-CA-224137

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

David Ritchey  
Hercules Fire Protection and Plumbing LLC  
35478 Lorain Rd  
North Ridgeville, OH 44039-4461

Michael Holmes, Labor Relations Specialist  
Burdzinski & Partners, Inc.  
2393 Hickory Bark Dr  
Dayton, OH 45458-9424

The Ohio State Association of Plumbers and  
Pipefitters  
947 Goodale Blvd Ste 209  
Columbus, OH 43212-3824

Cyndi Sauter, Labor Relations Rep.  
Burdzinski & Partners Inc.  
2393 Hickory Bark Dr.  
Dayton, OH 45458-9424

Jon Geier, Union Organizer  
The Ohio State Association of Plumbers and  
Pipefitters  
P. O. Box 34002  
Parma, OH 44143

Robert P. Curley, Esq.  
O'Donoghue and O'Donoghue LLP  
325 Chestnut Street, Suite 515  
Philadelphia, PA 19106-2603

EXHIBIT 9

UNITED STATE OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
Region 08

<b>HERCULES FIRE PROTECTION &amp; PLUMBING, LLC.</b>	:	
	:	
	:	
<b>Employer,</b>	:	
	:	
<b>and</b>	:	<b>Case No. 08-CA-224137</b>
	:	
<b>THE OHIO STATE ASSOCIATION OF PLUMBERS AND PIPEFITTERS, UNITED ASSOCIATION OF JOURNEYMAN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA</b>	:	
	:	
<b>Petitioner.</b>	:	

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**EMPLOYER’S ANSWER TO COMPLAINT**

Respondent Hercules Fire Protection and Plumbing, LLC. (“Hercules”) answers the Complaint and Notice of Hearing (“Complaint”) filed by the Acting General Counsel of the National Labor Relations Board (“NLRB”), states as follows:

**GENERAL DENIAL**

Except as otherwise expressly stated herein, Hercules denies each and every allegation contained in the Complaint, including, without limitation, any allegations contained in the preamble, headings, or subheadings of the Complaint, and Hercules specifically denies that It violated the National Labor Relations Act (“NLRA”) in any of the manners alleged in the complaint or in any other manner.

Pursuant to Section 102.20 of the Board’s rules, averments in the Complaint to which no responsive pleading is required shall be deemed as denied. Hercules expressly reserves the right to seek to amend and/or supplement its Answer as may be necessary.

**DEFENSES**

Without assuming any burden of proof, persuasion or production not otherwise legally assigned to it as to any element of the claims alleged in the Complaint, Hercules asserts the following defenses.

**Failure to State a Claim Upon Which Relief May be Granted**

The Complaint and each purported claim for relief stated therein fail to allege facts sufficient to state a claim upon which relief may be granted.

**Failure to Mitigate**

Respondent asserts that the Charging Party failed to reasonably mitigate any damages allegedly sustained. Any damages actually sustained by the Charging Party should be reduced proportionally for the failure to reasonably mitigate such losses.

**Contributory Negligence**

Respondent asserts that the Charging Party's damages, if any, were the direct and proximate cause of the Charging Party's own actions. The Charging Party's recovery, if any, should be proportionally reduced.

**Fraud**

Respondent asserts that the Charging Party's claims are fraudulent.

**Reservation to Supplement**

The Respondent reserves the right to supplement this Answer with any additional Affirmative Defenses.

**RESPONSE TO SPECIFIC ALLEGATIONS OF THE COMPLAINT**

Incorporating the foregoing, Hercules states as follows in response to the specific allegations of the Complaint:

**PREAMBLE**

Hercules denies any allegations contained in the preamble, except to admit that the Ohio State Association of Plumbers and Pipefitters, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada ("Charging Party" or "Union") has alleged in cases Case 08-CA-224137 that Hercules has engaged in certain unfair labor practices prohibited by the Act, and that the General Counsel of the NLRB has issued the Complaint.

**1(A)**

Hercules admits the allegation in paragraph 1(A).

**1(B)**

Hercules admits the allegation in paragraph 1(B).

**1(C)**

Hercules admits the allegation in paragraph 1(C).

**1(D)**

Hercules admits the allegation in paragraph 1(D).

**1(E)**

Hercules admits the allegation in paragraph 1(E).

**2(A)**

Hercules lacks information and knowledge sufficient to form a belief as to what the Complaint alleges to be "all material times," but admits Respondent has been a corporation with an office and place of business in North Ridgeville, Ohio, and has been engaged in the plumbing and installation of commercial automatic fire sprinkler systems.

**2(B)**

Hercules admits the allegation in paragraph 2(B).

**3**

Hercules lacks information and knowledge sufficient to form a belief as to what the Complaint alleges to be "all material times," but admits Respondent admits it has been an employer engaged in commerce within the meaning of Section 2(2), (6), (7) of the Act.

**4**

Hercules lacks information and knowledge sufficient to admit or deny paragraph 4.

**5**

Hercules lacks information and knowledge sufficient to form a belief as to what the Complaint alleges to be "all material times," but admits the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Mark Ritchey - Co-Owner

David Ritchey - Co-Owner

Tamara Nasharallah - Office Manager

Dan Betlejewski – Plumber—Supervisor

Alex Gates – Fitter/Plumber – Supervisor

Jacob Matesic – Fitter – Supervisor

Ryan Beaune – Fitter – Acting Supervisor (April 27, 2018 – June 29, 2018)

**6**

Hercules denies the allegation in paragraph 6.

**7 (A)**

Hercules denies the allegation in paragraph 7(A).

**7(B)**

Hercules denies the allegation in paragraph 7(b).

**7(C)**

Hercules denies the allegation in paragraph 7(c).

**8 (A-C)**

Hercules admits the allegations in paragraphs 8(A) through 8(C).

**8(D)(1)**

Hercules admits the allegation in paragraph 8(D)(1).

**8(D)(2)**

Hercules denies the allegation in paragraph 8(D)(2).

**8(D)(3)**

Hercules denies the allegation in paragraph 8(D)(3).

**8(E)**

Hercules denies the allegation in paragraph 8(E).

**8(F)**

Hercules denies the allegation in paragraph 8(F).

**9**

Hercules denies the allegation in paragraph 9.

**10**

Hercules denies the allegation in paragraph 10.

**11**

Hercules denies the allegation in paragraph 11, as Hercules denies the validity of all allegations found within the complaint. Additionally, the allegation in paragraph 11 states a legal conclusion for which no response is required.

**WHEREFORE**, the Respondent prays that the Complaint be dismissed with prejudice, that the matter be dismissed, and that the Board order any and all such further relief as is appropriate, equitable, and available.

Respectfully submitted:

/s/ Cyndi A. Sauter

Cyndi A. Sauter

Burdzinski & Partners, Inc.

2393 Hickory Bark Dr.

Dayton, Ohio 45458

(937) 885-3705 – telephone

(866) 645-7304 – fax

[csauter@burdzinski.com](mailto:csauter@burdzinski.com)

Representative for Hercules Fire Protection  
and Plumbing, LLC.

**CERTIFICATE OF SERVICE**

This is to certify that service of the above and foregoing **EMPLOYER'S ANSWER** has been made on Region 08 of the National Labor Relations Board on November 12, 2018 via the Agency's e-filing portal, and courtesy copies have been electronically served on the following parties, namely:

Stephen M. Pincus  
Attorney  
National Labor Relations Board, Region 8  
Anthony J. Celebrezze Federal Building  
1240 E. Ninth Street, Room 1695  
Cleveland, OH 44199-2086  
Stephen.Pincus@nlrb.gov

Robert P. Curley, Esq.  
Constitution Place  
325 Chestnut Street, Suite 515  
Philadelphia, PA 19106  
(215) 629-4970  
RCurley@O'Donoghuelaw.com

David Ritchey  
Hercules Fire Protection and Plumbing, LLC  
35478 Lorain Rd  
North Ridgeville, OH 44039-4461  
djritchey@herculesfire.com

Jon Geier, Union Organizer  
The Ohio State Association of Plumbers and  
Pipefitters  
P.O. Box 34002  
Parma, Ohio  
jon@ohiopipetrades.com

/s/ Cyndi A. Sauter \_\_\_\_\_  
Cyndi A. Sauter  
Burdzinski & Partners