



employers from discharging employees for engaging in protected concerted activities for the purpose of mutual aid and protection.

In support of this Petition, Petitioner respectfully shows as follows:

1. Petitioner is the Regional Director of the Fifteenth Region ("Region 15") of the Board, an agency of the United States Government, and files this Petition for and on behalf of the Board, which has authorized the filing of this Petition.

2. Jurisdiction of this Court is invoked pursuant to Section 10(j) of the Act, [29 U.S.C. § 160 (j)], which provides, *inter alia*, that the Board shall have power, upon issuance of a complaint charging that any person has engaged in or is engaging in an unfair labor practice, to petition any United States district court, within any district wherein the unfair labor practice in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order.

3. At all times material herein, Respondent, a corporation with an office and place of business in Citronelle, Alabama, has been engaged in this judicial district in the manufacture and nonretail sale and distribution of absorbent tipped applicators and wooden disposable medical products.

4. On October 21, 2016, Celess Monigan (the "Charging Party"), filed with the Board the original charge in Case 15-CA-186720 alleging that on September 28, 2016, Respondent discharged the Charging Party and others in retaliation for their protected concerted activities. On November 23, 2016, the Charging Party filed a first amended charge. On December 27, 2016, the Charging Party filed a second amended charge. On February 8, 2017, the Charging Party filed a third amended charge alleging Respondent engaged in, and is

engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act. (Copies of the original charge and amended charges are attached hereto as **Exhibits A-D**).

5. The charge in Case 15-CA-186720 was referred to Petitioner as Regional Director of Region 15 of the Board for investigation.

6. Following a full investigation during which all parties were given an opportunity to submit evidence and legal arguments concerning the allegations raised in the charges outlined above, the Petitioner determined there is reasonable cause to believe, as alleged in the third amended charge, that Respondent engaged and is engaging in unfair labor practices in violation of Section 8(a)(1) of the Act. On March 20, 2017, the General Counsel of the Board (the "General Counsel"), on behalf of the Board, by Petitioner, issued an a Complaint and Notice of Hearing ("Complaint") against Respondent pursuant to Section 10(b) of the Act [29 U.S.C. § 160(b)], alleging Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act [29 U.S.C. 158(a)(1)]. (A copy of the Complaint is attached as **Exhibit E**). Respondent filed its Answer to the Complaint on April 3, 2017. (A copy of the Answer is attached as **Exhibit F**). The Petitioner issued an Order Rescheduling Hearing on May 1, 2017. (A copy of the Order is attached as **Exhibit G**). The Petitioner issued an Amended Complaint and Notice of Hearing ("Amended Complaint") on May 8, 2017. (A copy of the Amended Complaint is attached as **Exhibit H**). Respondent's answer to the Amended Complaint was due by May 22, 2017. An evidentiary hearing was scheduled to open on May 31, 2017, before an Administrative Law Judge on the allegations in the Amended Complaint. However, Respondent filed a motion to move the hearing to a later date, which was granted over the objection of the Petitioner. (Respondent's Objection to Unilateral Trial Acceleration and Motion to Reinstate Original Trial Date is

attached as **Exhibit I**, Counsel for General Counsel's Response to Objection to Unilateral Trial Acceleration and Motion to Reinstate Original Trial Date is attached as **Exhibit J**, and the Order Granting Respondent's Motion for a Postponement of the Hearing is attached as **Exhibit K**). The evidentiary hearing is now scheduled to open July 10, 2017. (A copy of the Second Order Rescheduling Hearing is attached as **Exhibit L**).

7. Petitioner is likely to succeed in establishing the allegations set forth in the Amended Complaint involving Case 15-CA-186720 are true and that Respondent engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act and affecting commerce within the meaning of Section 2(6) and (7) of the Act [29 U.S.C. § 152(6) and (7)]. More particularly as set forth below in paragraphs 9(a) through 9(k), there is a strong likelihood of success in proving Respondent violated Section 8(a)(1) of the Act by (a) using against its employees who engaged in the protected concerted activity of a work stoppage a rule that employees who miss work without "calling in" will be suspended, (b) suspending or otherwise discriminating against employees because they engaged in protected concerted activities for the purpose of mutual aid and protection; and (c) discharging or otherwise discriminating against employees because they engaged in concerted activities for the purpose of mutual aid and protection.

8. Pursuant to Rule 10(c) of the Federal Rules of Civil Procedure, a true copy of the charges, the Complaint, Respondent's Answer to the Complaint, the Order Rescheduling Hearing, the Amended Complaint, Respondent's Objection to Unilateral Trial Acceleration and Motion to Reinstate Original Trial Date, Counsel for the General Counsel's Response to Objection to Unilateral Trial Acceleration and Motion to Reinstate Original Trial Date, Order Granting Respondent's Motion for a Postponement of the Hearing, and the Second Order

Rescheduling Hearing are attached and marked as **Exhibits A through L**, and are incorporated as though fully set forth.

9. In support of the Petition, and the request for injunctive relief herein, documentary evidence and affidavits are attached hereto as **Exhibits M through X**. Petitioner, upon information and belief, has a likelihood of success of establishing the following:

(a) At all material times, Respondent has been a corporation with an office and place of business in Citronelle, Alabama (Respondent's facility), and has been engaged in the manufacture and the nonretail sale of absorbent tipped applicators and wooden disposable medical products.

(b) In conducting its operations annually, Respondent sold and shipped from its Citronelle, Alabama facility goods valued in excess of \$50,000 directly to points outside the State of Alabama.

(c) Annually, Respondent, in conducting its operations described above in paragraph 9(b), purchased and received at its Citronelle, Alabama facility goods valued in excess of \$50,000 directly from points outside the State of Alabama.

(d) 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 [29 U.S.C. § 152(2), (6) and (7)].

(e) 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:

John Bassett

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President

John Clay Bassett	-	Vice President
Jerome Rocker	-	Supervisor
William Thrower	-	Manager
Judy Weaver	-	Supervisor

(f) About September 22, 2016, Respondent's employees named below engaged in concerted activities with other employees for the purpose of mutual aid and protection, by engaging in a walk out to protest new work rules at Respondent's facility:

Jawana Beard	Courtney Byrd	Sue Byrd
Neldra James	Trina Johnson	Valerie Jones
Alexandra Kelly	Minnie Lee Land	Keisha Loper
Mamawi Mack	Cynthia McKinnis	Celess Monigan
Addie Nettles	Shammetta Patton	Polly Smith
Debra Turner		

(g) Since about July 1, 2016, Respondent has maintained a rule stating that if an employee misses work without calling in, the employee is suspended the next day of work.

(1) About September 26, 2016, Respondent suspended the employees named above in paragraph 9(f).

(2) About September 26, 2016, Respondent suspended employees Gloria Hughes and Tammey Hughes.

(3) About September 28, 2016 Respondent discharged the below named employees:

Jawana Beard	Courtney Byrd	Sue Byrd
Gloria Hughes	Tammey Hughes	Neldra James
Trina Johnson	Valerie Jones	Alexandra Kelly

Keisha Loper

Mamawi Mack

Shammetta Patton

Cynthia McKinnis

Celess Monigan

Addie Nettles

Debra Turner

(h)(1) From about September 22, 2016 to about September 28, 2016, certain employees of Respondent, employed at Respondent's facility ceased work concertedly and engaged in a strike.

(2) The September 22, 2016 strike described above in paragraph 9(h)(1) was prolonged by the unfair labor practices of Respondent described above in paragraphs 9(g)(1) and 9(g)(2).

(3) About September 28, 2016, the employees listed above in paragraph 9(f) and 9(g)(2), who engaged in the strike described above in paragraphs 9(h)(1) and/or 9(h)(2) made an unconditional offer to return to their former positions of employment.

(4) Since about September 28, 2016, Respondent has failed and refused to reinstate the employees named above in paragraph 9(g)(3), except Mamawi Mack and Shammetta Patton, to their former positions of employment.

(i)(1) Respondent engaged in the conduct described above in paragraphs 9(g)(1), 9(g)(2), and 9(g)(3) because the named employees engaged in conduct described above in paragraph 9(f), and to discourage employees from engaging in these or other concerted activities.

(2) Respondent engaged in the conduct described above in paragraphs 9(g)(1), 9(g)(2), and 9(g)(3) because the named employees violated the rule described above in paragraph 9(g) and to discourage employees from engaging in these or other concerted activities.

(j) By the conduct described above in paragraphs 9(g)(1) through 9(g)(3), 9(h)(2), 9(h)(3), 9(h)(4) and 9(i)(1) and 9(i)(2), 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.

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

10. Petitioner has reasonable cause to believe that by the conduct described in paragraphs 9(g) through 9(k), 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, and these unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

11. The unfair labor practices of Respondent described above in paragraph 9 took place within this judicial district.

12. Petitioner is likely to succeed in proving that by the conduct set forth in paragraphs 9(g) through 9(k), 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.

13. Upon information and belief, it may be fairly anticipated that, unless enjoined, Respondent will continue to engage in the conduct set forth in paragraphs 9(g) through 9(k), or similar or like acts in violation of Section 8(a)(1) of the Act. It is therefore necessary, just and proper that the effects of Respondent's acts and conduct be dissipated by remedial action on the part of Respondent so that its employees can freely exercise the rights guaranteed them by the Act, and their rights not be impeded, impaired or hindered.



14. Respondent's unfair labor practices, as described above in paragraphs 9(g) through 9(k), have and continue to substantially and irreparably harm employees of Respondent in the exercise of the rights guaranteed them by Section 7 of the Act.

15. Upon information and belief, absent the interim relief sought in this petition, Respondent's acts and conduct described above will impede, and ultimately defeat, the most paramount provisions of the Act. Section 7 of the Act protects the rights of employees to "engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection . . . ." 29 U.S.C. §157. Respondent's conduct herein strikes at the very principles which form the foundation of the Act and causes irreparable harm to the interests and statutory rights of employees and to the Board's remedial authority. Unless enjoined, Respondent's unlawful conduct may ultimately result in an irreparable dissipation of employees, an injury which cannot be restored by a final Board order and/or subsequent Court judgment. Employees will continue to be deprived of their Section 7 rights to engage in concerted activities for their mutual aid or protection, thereby frustrating employees, now and in the future, in the exercise of the rights guaranteed them by Section 7 of the Act.

16. Unless injunctive relief is immediately obtained, it may fairly be anticipated that Respondent will continue its unlawful conduct during the proceedings before the Board and during subsequent proceedings before a Court of Appeals for an enforcement decree, with the result being irreparable injury to employees because employees will continue to be deprived of their fundamental right to engage in concerted activities for their mutual aid or protection as provided for in the Act. A serious flouting of the Act and of public policies involved in the Act will continue, with the result that enforcement of important provisions of

the Act and of public policy will be impaired before Respondent can be placed under legal restraint through the regular procedures of a Board order and enforcement decree.

17. The Petitioner believes in good faith that there is a strong likelihood it will prevail on the administrative complaint and the remedy will require, *inter alia*, the Respondent to (a) stop applying to its employees who engage in protected concerted activity a rule that employees who miss work without calling in will be suspended; (b) stop suspending or otherwise discriminating against employees because they engaged in protected concerted activities; (c) stop discharging or otherwise discriminating against employees because they engaged in protected concerted activities; (d) in any other manner, stop interfering with, restraining, or coercing employees in the exercise of their rights guaranteed by Section 7 of the Act; (e) expunge the September 26, 2016 suspension from the personnel files of Jawana Beard, Courtney Byrd, Sue Byrd, Gloria Hughes, Tammey Hughes, Neldra James, Trina Johnson, Valerie Jones, Alexandra Kelly, Minnie Lee Land, Keisha Loper, Mamawi Mack, Cynthia McKenzie, Celess Monigan, Addie Nettles, Shammetta Patton, Polly Smith, and Debra Turner; (f) offer Jawana Beard, Courtney Byrd, Sue Byrd, Gloria Hughes, Tammey Hughes, Neldra James, Trina Johnson, Valerie Jones, Alexandra Kelly, Keisha Loper, Cynthia McKinnis, Celess Monigan, Addie Nettles, and Debra Turner full reinstatement to their former jobs or, if the jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and displacing, if necessary, any worker hired, contracted for, or reassigned to replace them; (g) expunge the September 28, 2016 discharge from the personnel files of Jawana Beard, Courtney Byrd, Sue Byrd, Gloria Hughes, Tammey Hughes, Neldra James, Trina Johnson, Valerie Jones, Alexandra Kelly, Keisha Loper, Mamawi Mack, Cynthia McKinnis, Celess

Monigan, Addie Nettles, Shammetta Patton, and Debra Turner; (h) post a Notice at Respondent's Citronelle, Alabama facility in all locations where notices to employees are customarily posted, free of all obstructions and defacements, and grant agents of the Board reasonable access to Respondent's facility to monitor compliance with this posting requirement; and (i) hold a mandatory meeting or meetings on paid working time at Respondent's facility, scheduled to ensure the widest possible audience, at which a responsible management official, in the presence of a Board Agent, will read the Notice to employees in English, or at Respondent's option, have a Board agent read the Notice in that official's presence.

18. In balancing the equities in this matter, the irreparable harm to the public interest and to the purposes and policies of the Act if injunctive relief is not granted, clearly outweighs any harm the granting of such injunctive relief will have on Respondent, particularly in light of the strong likelihood of Petitioner's success on the merits. The reinstatement of the employees will not pose a significant hardship on Respondent. Rather, Respondent will benefit from the labor of experienced employees during the interim period. Moreover, reinstatement of the employees will restore the lawful status quo and will serve the public interest in protecting the right of employees to freely and fully support each other's protected, concerted efforts.

In sum, Respondent's unremedied unfair labor practices undermine employees' faith that they have the right to "engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection . . . ." 29 U.S.C. §157 and, without interim reinstatement of the terminated employees, Respondent's current employees will be

justifiably reluctant to exercise their right to engage in concerted activities for their mutual aid or protection.

19. Upon information and belief, to avoid the serious consequences set forth above, it is essential, appropriate, and just and proper, for the purposes of effectuating the policies of the Act and avoiding substantial, irreparable, and immediate injury to such policies, to the public interest, and to former and current employees of Respondent, and in accordance with the purposes of Section 10(j) of the Act, that, pending the final disposition of the matters involved herein by the Board, Respondent be enjoined and restrained from the commission of the acts and conduct alleged above, similar acts and conduct or repetitions thereof.

20. No previous application has been made by Petitioner for the relief requested herein.

WHEREFORE, Petitioner prays:

1. That this Court issue an Order directing Respondent to appear before this Court, at a time and place fixed by the Court, and show cause, if any there be, why an injunction should not issue enjoining and restraining Respondent, its officers, representatives, supervisors, agents, employees, attorneys and all persons acting on its behalf or in participation with it, from engaging in the acts and conduct described above, similar or like acts, or other conduct in violation of Section 8(a)(1) of the Act, or repetitions thereof, and that the instant Petition be disposed of on the basis of the affidavits, submitted herewith, without oral testimony, absent further order of the Court.

2. That this Court issue an Order directing Respondent, its officers,

representatives, supervisors, agents, employees, attorneys, and all persons acting on its behalf or in participation with it, to cease and desist from the following acts and conduct, pending the final disposition of the matters involved herein by the Board:

(a) Applying to its employees who engage in protected concerted activity a rule that employees who miss work without calling in will be suspended;

(b) Suspending its employees, or otherwise discriminating against its employees, because of their protected concerted activity;

(c) Discharging its employees, or otherwise discriminating against its employees, because of their protected concerted activity;

(d) In any other manner, interfering with, restraining, or coercing employees in the exercise of their rights guaranteed them by Section 7 of the Act.

3. That the Court further order Respondent, its officers, representatives, supervisors, agents, employees, attorneys and all persons acting on its behalf or in participation with it, to take the following affirmative action necessary to effectuate the policies of the Act pending the final disposition of the matters involved herein by the Board:

(a) Within five (5) days of the issuance of the District Court's Decision and Order, expunge the September 26, 2016 suspension from the personnel files of Jawana Beard, Courtney Byrd, Sue Byrd, Gloria Hughes, Tammey Hughes, Neldra James, Trina Johnson, Valerie Jones, Alexandra Kelly, Minnie Lee Land, Keisha Loper, Mamawi Mack, Shammetta Patton, Cynthia McKinnis, Celess Monigan, Addie Nettles, Polly Smith, and Debra Turner, and not rely on the suspension in issuing any future discipline.

(c) Within five (5) days of the issuance of the District Court's Decision and Order, offer in writing Jawana Beard, Courtney Byrd, Sue Byrd, Gloria Hughes, Tammey Hughes,

Neldra James, Trina Johnson, Valerie Jones, Alexandra Kelly, Keisha Loper, Cynthia McKinnis, Celess Monigan, Addie Nettles, and Debra Turner full and immediate reinstatement to their former jobs or, if the jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and displacing, if necessary, any worker hired, contracted for, or reassigned to replace them.

(d) Within five (5) days of the issuance of the District Court's Decision and Order, expunge the September 28, 2016 discharge of Jawana Beard, Courtney Byrd, Sue Byrd, Gloria Hughes, Tammey Hughes, Neldra James, Trina Johnson, Valerie Jones, Alexandra Kelly, Minnie Lee Land, Keisha Loper, Mamawi Mack, Shammetta Patton, Cynthia McKinnis, Celess Monigan, Addie Nettles, Polly Smith, and Debra Turner, and not rely on the discharge in issuing any future discipline.

(e) Post copies of the District Court's Order in this proceeding at Respondent's Citronelle, Alabama facility in all locations where notices to employees are customarily posted; maintain such postings during the Board's administrative proceedings free from all obstructions and defacements; grant agents of the Board reasonable access to Respondent's facility to monitor compliance with this posting requirement.

(f) Hold a mandatory meeting or meetings on paid working time at Respondent's facility, scheduled to ensure the widest possible audience, at which a responsible management official, in the presence of a Board Agent, will read the District Court's Order to employees in English, or at Respondent's option, have a Board agent read the Order in that official's presence.

(g) Within twenty (20) days of issuance of this decree, file with the District Court, with a copy served to the Regional Director, Region 15, a sworn affidavit from a responsible official setting forth with specificity the manner in which the Respondent has complied with the terms of this decree, including the date and exact locations where Respondent has the documents as required by this decree.

4. That, upon return of the Order to Show Cause, the Court issue an Order enjoining and restraining Respondent in the manner set forth above and in the manner set forth in Petitioner's Order Granting Temporary Injunction lodged herewith.

5. That the Court grant such other and further relief as may be just and proper.

6. That the Court grant expedited consideration to this petition, consistent with 28 U.S.C. § 1657(a) and the remedial purposes of Section 10(j) of the Act.

Dated at New Orleans, Louisiana this 23<sup>rd</sup> day of May, 2017.

M. Kathleen McKinney, Regional Director  
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By:

/s/ Beauford D. Pines

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