

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>RETSEL CORPORATION, d/b/a GRAND GATEWAY HOTEL and d/b/a CHEERS SPORTS LOUNGE AND CASINO, CONNIE UHRE, and NICHOLAS UHRE,</p> <p>Defendants.</p>	<p>Civ. No. 5:22-cv-05086-LLP</p> <p>DEFENDANTS' JOINT AND SEPARATE ANSWER TO PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL</p>
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Defendants Retsel Corporation d/b/a Grant Gateway Hotel and d/b/a Cheers Sports Lounge and Casino (Retsel), Connie Uhre, and Nicholas Uhre (collectively Defendants) for their Joint and Separate Answer to Plaintiff's Complaint (the Complaint) state and allege as follows:

1. Defendants deny each and every allegation, matter, and thing contained in the Complaint except as hereinafter expressly admitted, alleged, qualified, or otherwise stated.
2. Defendants deny any allegations or matters contained within the headings or subheadings of Plaintiffs' Complaint.
3. Paragraph 1 of the Complaint does not state an allegation but instead characterizes the litigation and therefore no response is necessary, and to the extent that

paragraph 1 of the Complaint states allegations against Defendants, those allegations are denied.

4. Paragraph 2 of the Complaint does not state an allegation but instead characterizes the litigation and therefore no response is necessary, and to the extent that paragraph 2 of the Complaint states allegations against Defendants, those allegations are denied.

Jurisdiction and Venue

5. Paragraph 3 of the Complaint states a legal conclusion to which no response is necessary.

6. Paragraph 4 of the Complaint states a legal conclusion to which no response is necessary.

Defendants

7. Defendants admit the allegations in paragraph 5 of the Complaint.

8. Defendants admit the allegations in paragraph 6 of the Complaint.

9. Defendants admit the allegations in paragraph 7 of the Complaint.

10. Defendants admit the allegations in paragraph 8 of the Complaint.

11. Paragraph 9 of the Complaint states a legal conclusion to which no response is necessary, and to the extent this paragraph states allegations against Defendants, those allegations are denied.

12. Defendants admit the allegations in paragraph 10 of the Complaint.

13. Defendants deny the allegations in paragraph 11 of the Complaint.

14. Defendants deny that Nick Uhre is Vice President of Finance of Retsel Corporation and admit the remaining allegations in paragraph 12 of the Complaint.

15. Paragraph 13 of the Complaint states a legal conclusion to which no response is necessary, and to the extent this paragraph states allegations against Defendants, those allegations are denied.

16. Paragraph 14 of the Complaint states a legal conclusion to which no response is necessary, and to the extent this paragraph states allegations against Defendants or seeks to impose liability beyond that required by law, those allegations are denied.

Defendants' Hotel and Sports Bar

17. Defendant admits the allegations in paragraph 15 of the Complaint.

18. Defendant admits the allegations in paragraph 16 of the Complaint.

19. Defendant admits the allegations in paragraph 17 of the Complaint denial karaoke.

20. Paragraph 18 of the Complaint states a legal conclusion to which no response is necessary.

21. Defendants are without sufficient information and belief to either admit or deny the allegations in paragraph 19 of the Complaint.

22. Paragraph 20 of the Complaint states a legal conclusion to which no response is necessary.

23. Paragraph 21 of the Complaint states a legal conclusion to which no response is necessary.

Facts Related to Defendants' Alleged Unlawful Practices

24. Defendants deny the allegations in paragraph 22 of the Complaint.

25. Defendants deny the allegations in paragraph 23 of the Complaint.

26. In response to the allegations in paragraph 24 of the Complaint, Defendants admit that Nicholas Uhre wrote an e-mail on or around March 20, 2022, and that Connie Uhre wrote an e-mail within that chain, denies that any policy prohibiting Native Americans from the property was implemented, and states that the e-mail and e-mail chain summarized and quoted speaks for itself and no further response is necessary.

27. On information and belief, Defendants deny that the posting referenced in paragraph 25 of the Complaint was posted on Connie Uhre's Facebook account.

28. In response to the allegations in paragraph 26 of the Complaint, Defendants admit that on March 21, 2022, a person believed to be Sunny Red Bear entered the Grand Gateway Hotel and asked to rent a room, that the hotel provided a quote, that Sunny Red Bear provided a driver's license, that it showed a Rapid City address, that the hotel employee explained that the hotel was not renting rooms to residents of Rapid City, that the "local policy" was not in writing, Defendants are without sufficient information to either admit or deny whether Sunny Red Bear or persons with her were Native American and, and Defendants deny the remaining allegations in paragraph 26 of the Complaint.

29. In response to the allegations in paragraph 27 of the Complaint, Defendants admit that a group of representatives of NDN Collective, Inc. entered the Grand Gateway Hotel on March 25, and are without sufficient information to either admit or deny the remaining allegations in paragraph 27 of the Complaint.

30. Defendant is without sufficient information to either admit or deny the allegations in paragraph 28 of the Complaint.

31. In response the allegations in paragraph 29, Defendants admit the allegations but state that they fail to provide the context in which the events alleged occurred.

32. Defendants deny the allegations in paragraph 30 of the Complaint.

33. Defendants deny the allegations in paragraph 31 of the Complaint.

Prayer for Relief

34. In response to the unnumbered paragraph beginning with the word “WHEREFORE” on page 7 of the Complaint, and each of its subparts 1. through 3., Defendants deny that Plaintiff is entitled to any relief for its causes of action.

35. In response to the unnumbered paragraph beginning with the words “The United States” on page 7 of the Complaint, Defendants deny that Plaintiff is entitled to any relief for its causes of action.

AFFIRMATIVE AND OTHER SELECTED DEFENSES

Defendants assert the following defenses, affirmative or otherwise, in response to the allegations in Plaintiff’s Complaint:

36. Defendant’s decisions at issue in the Complaint were based on factors other than alleged protected class membership or protected characteristics.

37. Defendant’s actions were based on legitimate, non-discriminatory reasons.

38. Social media postings referenced in the Complaint do not reflect the practices or policies of Retsel Corporation.

39. Defendants did not engage in a pattern or practice of discrimination.

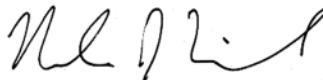
40. Plaintiff has failed to allege conduct that gives rise to a legally actionable claim of discrimination.

41. Some or all of Plaintiff's claims may be barred by the doctrines of waiver, laches, estoppel, failure of consideration, fraud, illegality, release, unclean hands, election of remedies, the business judgment rule, justification, accord and satisfaction, and principals of equity.

42. Defendants assert that they may have further and additional affirmative and other defenses the nature of which cannot be determined until Defendants have had an opportunity to engage in discovery. Defendants therefore incorporate all affirmative defenses stated or contemplated by Rule 8 of the Federal Rules of Civil Procedure as if fully set forth herein and reserve the right to assert further affirmative or other defenses as discovery and investigation continue.

WHEREFORE, Defendants request that this Court enter judgment in their favor and against Plaintiffs as follows:

1. Dismissal of Plaintiff's Complaint with prejudice and on the merits;
2. Awarding Defendants their costs, disbursements, and attorney fees; and
3. Such further relief as the Court deems just, proper and equitable.



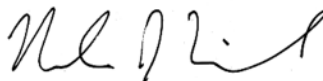
Dated: November 14, 2022

Bradley J. Lindeman (SD Bar #2817)
Meagher + Geer, PLLP
33 South Sixth Street, Suite 4400
Minneapolis, MN 55402
Telephone: 612.338.0661
Facsimile: 612.338.8384
blindeman@meagher.com

Attorneys for Defendants

DEMAND FOR JURY TRIAL

Defendants demand a jury trial on all issues triable to a jury.



Dated: November 14, 2022

Bradley J. Lindeman (SD Bar #2817)

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