

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

EEOC, Plaintiff, -vs- SPITZER MANAGEMENT, INC. d/b/a SPITZER MOTOR CITY, INC. Defendant.	: : : : : :	CASE NO. 1:06cv02337 JUDGE <u>ANSWER OF DEFENDANT,</u> <u>SPITZER MANAGEMENT, INC.</u> : : : : :
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Now comes Defendant, Spitzer Management, Inc., misnamed in the Complaint as Spitzer Management, Inc., d/b/a Spitzer Motor City, Inc., by and through counsel and for its Answer to the Complaint states:

1. Paragraph 1 of the Complaint is a general description of the jurisdictional basis for a claim, to which no factual response is required. To the extent paragraph 1 may assert that Plaintiff has a valid claim under the statutes cited, it is denied.
2. Defendant admits that the Complaint describes and alleges events claimed to have occurred within the geographical confines of the United States District Court for the Northern District of Ohio, Eastern Division.
3. Defendant admits the factual allegations made in paragraph 3 of the Complaint, insofar as it contends that the Commission has authority to bring civil actions under 42 U.S.C. § 2000e-5(f)(1).

4. Denies the allegations contained in paragraph 4 of the Complaint and further states that Spitzer Management, Inc., does not do business as Spitzer Motor City, Inc., as said corporations are separate entities. Defendant further states that Dean O. Okafor and David J. Marek were not employed by Defendant, Spitzer Management, Inc.

5. Denies the allegations contained in paragraph 5 and 6 of the Complaint as Spitzer Management, Inc., is not the employer of Dean O. Okafor and David J. Marek.

6. Denies the allegations contained in paragraph 7 of the Complaint as Spitzer Management, Inc., does not operate at 13001 Brookpark Road.

7. Denies the allegations contained in paragraphs 8-10 of the complaint.

8. Defendant denies that Plaintiff is entitled to any of the relief requested in the Complaint's "Prayer for Relief."

9. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

10. Any allegations contained in Plaintiff's Complaint which are not expressly admitted herein are denied.

11. Plaintiff has failed to join all necessary and indispensable parties.

12. Defendant hereby gives notice that it intends to rely upon other defenses as they may become available during the discovery proceedings in this case and hereby reserves the right to amend its answer and to assert any such defenses including jurisdiction and venue.

AFFIRMATIVE DEFENSES

13. To the extent Mr. Okafor and Mr. Marek have not mitigated the damages claimed on their behalf, they are precluded from recovering any alleged damages.

14. The claims alleged in the Complaint are barred because Defendant exercises reasonable care to prevent and correct promptly any racially harassing or discriminatory behavior that might occur and Mr. Okafor and Mr. Marek unreasonable failed to take advantage of the preventive or corrective opportunities provided by Defendant, or to otherwise avoid harm alleged in the Complaint.

15. Defendant has a no harassment policy in effect.

16. Defendant immediately took action when Mr. Okafor made his initial complaint, and, in fact, has fired the general manager of Spitzer Motor City, Inc..

WHEREFORE, having fully answered, Defendant, Spitzer Management, Inc., respectfully requests this Honorable Court dismiss Plaintiff's complaint in its entirety and award judgment in favor of Defendant.

Respectfully submitted,

s/ANTHONY B. GIARDINI
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PROOF OF SERVICE

I certify that on this 30th day of November, 2006, a copy of the foregoing Answer was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

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