

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

Case No. 2:13-cv-15229-PDB-MAR

and CHRISTOPHER SMITH
Plaintiff -- Intervenor
v.

Hon. Victoria A. Roberts

GUARDSMARK, LLC, and
GENERAL DYNAMICS, CORP.,

Defendants.

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COMPLAINT OF INTERVENING PLAINTIFF CHRISTOPHER SMITH

NOW COMES Plaintiff, CHRISTOPHER SMITH, by and through his attorney, NACHT, ROUMEL, SALVATORE, BLANCHARD & WALKER, P.C., and hereby complains of Defendants GUARDSMARK, LLC and GENERAL DYNAMICS, CORP., as follows:

NATURE OF THE CASE

This is an action for retaliation under Title VII of the Civil Rights Act of 1964 and for various violations of the Elliot Larson Civil Rights Act. Plaintiff Christopher Smith was working as a security guard for Guardsmark, LLC (“Guardsmark”), where he was placed in a position as front desk security at General Dynamics’ (“GD”) Warren, Michigan facility and then transferred to GD’s Sterling Heights facility. While working at General Dynamics' Sterling Heights facility, Smith witnessed a male co-worker using the security cameras to zoom in on women’s breasts as they entered the facility. Smith complained to the co-worker, who refused to stop the offensive conduct. Smith then informed a female victim of the co-worker’s conduct and the victim complained about it. Two days later, Guardsmark removed Christopher Smith from his position at General Dynamics.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Christopher Smith worked for Guardsmark as a security guard from October of 2006 to June 6, 2012. In approximately 2008, Guardsmark placed Smith at General Dynamics’ Warren facility, where he was paid \$15.00 an hour. In approximately 2011, Christopher Smith was transferred to General Dynamics’ Sterling Heights facility.

2. Guardsmark, LLC is a security company that provides security guards to corporate clients. Guardsmark is a Delaware Corporation doing business in the State of Michigan and the City of Troy. Guardsmark has more than 15 employees. At all relevant times, Guardsmark was Plaintiff’s employer pursuant to section 701(b) of Title VII, 42 U.S.C. 2000e(h) and M.C.L. § 37.2201(a).

3. General Dynamics Corp. is a defense contractor based in Falls Church, Virginia. General Dynamics has a land systems division with operations in Michigan. General Dynamics contracts with Guardsmark for security services at its facilities in Warren and Sterling Heights, Michigan. At all relevant times, Plaintiff worked as a security guard at General Dynamics' Warren and Sterling Heights facilities. General Dynamics had the ability to control terms and conditions of Plaintiff's employment, and thus General Dynamics was a co-employer of Plaintiff.

4. At all relevant times, Defendants have continuously been employers engaged in industries affecting commerce within the meaning of sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e(b), (g), and (h).

5. The employment practices alleged to be unlawful were committed within the jurisdiction of this Court.

6. The Court's jurisdiction is premised on Title VII of the Civil Rights Act of 1964 as amended, U.S.C. §2000e-5(f)(i) et seq. and 42 U.S.C. §2000e-2(a) et seq. ("Title VII"), Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a, and the Michigan Elliot Larson Civil Rights Act ("ELCRA"), M.C.L. §37.2101 et seq.

7. The amount in controversy exclusive of interest and costs exceeds \$75,000 (seventy-five-thousand dollars).

8. Plaintiff timely filed a charge with the Equal Employment Opportunity Commission ("EEOC"). He has complied with all procedural prerequisites to this action and he intervened in the action filed in this matter by the EEOC.

BACKGROUND FACTS FOR ALL COUNTS

9. Plaintiff realleges and incorporates by reference paragraphs 1 through 8 above.

10. Plaintiff Christopher Smith worked as a security guard for Defendant Guardsmark at Defendant General Dynamics' Warren and Sterling Heights facilities.

11. On a number of occasions at GD's Sterling Heights facility, Smith observed a male co-worker using the security cameras to zoom in on women's breasts.

12. Smith complained about the conduct to the co-worker, who responded that Smith should "mind his own business."

13. Thereafter, on or around June 4, 2012, Smith informed a female victim of the behavior of his co-worker's conduct. She subsequently complained about it.

14. Two days later, on June 6, 2012, Plaintiff was removed from his position at Defendant General Dynamics.

15. Although Guardsmark later indicated that Plaintiff was eligible to work at other facilities, it failed to place him in a different assignment or reassign him in any way. Moreover, Guardsmark made clear to him that he could no longer work at a General Dynamics facility.

16. Upon information and belief, Guardsmark removed Plaintiff from his position and refused to allow him to work for General Dynamics at the request of Defendant General Dynamics.

17. The effect of the Defendants' actions has been to deprive Plaintiff Smith of equal employment opportunity and to otherwise affect his status as an employee.

18. Defendants' conduct was intentional and was done with malice or with reckless indifference to Smith's rights.

COUNT I – RETALIATION
(Title VII)
(Against Guardsmark)

19. Plaintiff realleges and incorporates by references paragraphs 1 through 18 above.

20. Plaintiff was removed from his position at General Dynamics and was not reassigned to another position after he opposed the sexual harassment of women at a General Dynamics facility.

21. As a result of Defendant's conduct, Plaintiff was harmed and continues to be harmed in that he has suffered economic loss, emotional distress, and damage to reputation, among other injuries.

COUNT II – RETALIATION
(ELCRA)
(Against All Defendants)

22. Plaintiff realleges and incorporates by reference paragraphs 1 through 21 above.

23. Plaintiff was removed from his position at General Dynamics and was not reassigned to another position after he opposed the sexual harassment of women at a General Dynamics facility.

24. As a result of Defendants' conduct, Plaintiff was harmed and continues to be harmed in that he has suffered economic loss, emotional distress, and damage to reputation, among other injuries.

COUNT III
(ELCRA – Aiding and Abetting)
(Against General Dynamics)

25. Plaintiff realleges and incorporates by reference paragraphs 1 through 24 above.

26. By encouraging and/or requesting Guardsmark to remove Plaintiff from its facility, General Dynamics aided, abetted, incited, compelled and/or coerced Guardsmark to violate the ELCRA and interfered with Plaintiff's exercise of his enjoyment of rights protected by the ELCRA.

27. Defendant's conduct violated M.C.L. 37.2701(h) and (f).

28. As a result of Defendant's conduct, Plaintiff was harmed and continues to be harmed in that he has suffered economic loss, emotional distress, and damage to reputation, among other injuries.

WHEREFORE, Plaintiff Christopher Smith respectfully requests that this Honorable Court award whatever relief to which Plaintiff is found to be entitled to, including all lawful and equitable damages, punitive damages, and attorneys fees and costs.

Respectfully submitted,
NACHT, ROUMEL, SALVATORE,
BLANCHARD & WALKER, P.C.

June 10, 2014

/s/ Jennifer B. Salvatore

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DEMAND FOR JURY TRIAL

Now Comes Plaintiff, Christopher Smith, by and through his attorneys, Nacht, Roumel, Salvatore, Blanchard, & Walker, P.C. and hereby demands a trial by jury in the above captioned matter.

Respectfully submitted,
NACHT, ROUMEL, SALVATORE,
BLANCHARD & WALKER, P.C.

June 10, 2014

/s/ Jennifer B. Salvatore

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