

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

CRYSTAL SCOTT, an individual,

Plaintiff,

v.

SCHRYVER MEDICAL SALES AND
MARKETING, INC., a State of Colorado
corporation doing business in the State of
Washington as SCHRYVER MEDICAL,
INC.; CASEY MARSTERS, an individual;
DEMETRIUS TRUJILLO, an individual;
and JEFF ORTIZ, an individual,

Defendants.

No.

PLAINTIFF'S COMPLAINT FOR
WRONGFUL TERMINATION,
DISCRIMINATION, EQUAL PAY
VIOLATIONS, RETALIATION AND
DEFAMATION

Plaintiff Crystal Scott was terminated from her employment with Defendant Schryver Medical on June 1, 2012, after a photo depicting military moms breastfeeding caused national controversy and backlash. In addition to speaking out for breastfeeding mothers, Crystal Scott had also complained to Schryver about gender inequality and was told not to file a formal written complaint. Two weeks later, she was fired.

COMES NOW Plaintiff Crystal Scott ("Scott"), by and through her counsel of record, Patricia K. Buchanan and Adam G. Cuff, Patterson Buchanan Fobes Leitch & Kalzer, Inc., P.S., and, for the causes of action against the above-named Defendants Schryver Medical Sales

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1 and Marketing, Inc. ("Schryver"), doing business as Schryver Medical Inc., Casey Marsters
2 ("Marsters"), Demetrius Trujillo ("Trujillo"), and Jeff Ortiz ("Ortiz") (collectively,
3 "Defendants"), alleges and prays as follows:

4 I. PARTIES

5 1.1 Scott is and, at all times relevant, was a resident of the City of Cheney, County
6 of Spokane, State of Washington, and, until June 1, 2012, an employee of Schryver.

7 1.2 On information and belief, Schryver is and, at all times relevant, was an out-of-
8 state business incorporated in the State of Colorado, headquartered in the State of Colorado,
9 and doing business in, among other places, the City of Tukwila, County of King, State of
10 Washington.

11 1.3 On information and belief, Marsters is and, at all times relevant, was a resident
12 of the State of Washington, an employee of Schryver, and a manager of Scott and Ortiz.

13 1.4 On information and belief, Trujillo is and, at all times relevant, was a resident of
14 the State of Washington, an employee of Schryver, and a manager of Scott and Ortiz.

15 1.5 On information and belief, Ortiz is and, at all times relevant, was a resident of
16 the State of Washington, an employee of Schryver, and a supervisor of Scott.

17 II. JURISDICTION AND VENUE

18 2.1 Scott realleges all prior paragraphs as though fully set forth herein.

19 2.2 All acts and omissions alleged herein occurred, at all times relevant, in the State
20 of Washington and all claims are brought under the laws of the State of Washington.¹ The
21 parties and this lawsuit are subject to the personal and subject matter jurisdiction of this Court.

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25 ¹ Scott is considering filing a charge with the federal Equal Employment Opportunity Commission, prerequisite to
filing federal discrimination/retaliation claims. Accordingly, Scott reserves the right to amend her Complaint at a
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2.3 Pursuant to RCW 4.12.025, venue is proper in the County of King, State of Washington as Schryver resides (transacts business) in King County.

2.4 On information and belief, all alleged acts and/or omissions of Schryver and/or its employees were on behalf of Schryver and occurred in the course and scope of employment with Schryver.

III. FACTS

3.1 Scott realleges all prior paragraphs as though fully set forth herein.

3.2 From 2000 – 2006, Scott served in the United States Army as a medic with a tour of duty in Iraq.

3.3 In January of 2011, Scott graduated from Carrington (formerly, Apollo) in Spokane, Washington as an x-ray technologist.

3.4 In or about March, 2011, Schryver hired Scott as a part-time mobile x-ray technologist. This was Scott's first job in her career as an x-ray tech.

3.5 Schryver is a full-service supplier of healthcare products and services to long-term care facilities throughout the western United States.

3.6 In or about October 2011, Schryver promoted Scott to full-time status.

3.7 Scott worked for Schryver from approximately March 21, 2011, through approximately June 1, 2012, working out of its Spokane Valley, Washington location.

3.8 Scott was an excellent, dedicated employee who cared about her job, her coworkers, Schryver, and her patients/customers.

later appropriate date to add violation of federal claims, including without limitation Title VII of the federal Civil Rights Act. However, until and unless Scott actually amends her Complaint to add any federal claim, this reservation is not intended to waive her right to state court jurisdiction and/or warrant removal to federal court.

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1 3.9 On information and belief, Scott was and other female coworkers are and were,
2 at all times relevant, paid less than their male counterparts for similar work.

3 3.10 In or about May of 2012, Scott complained to Schryver in writing, including
4 without limitation to Marsters and Trujillo, and orally to Trujillo, Ortiz, and her coworkers,
5 Rhonda King ("King") and Tom Janke ("Janke"). She complained regarding equipment safety
6 issues relating to the Schryver company vehicles, including without limitation ramps, carpet,
7 annual x-ray machine checks, and the proper securing of the x-ray machines due to a lack of
8 equipment cages in the vans used to transport the x-ray machines.

9 3.11 King told Scott not to report safety issues.

10 3.12 On information and belief, the safety reports made by Scott were not addressed
11 and nothing was done to improve the safety issues.

12 3.13 As a result of the failure of Schryver to address some of these unreported safety
13 issues, on or about May 8, 2012, Scott injured herself on an x-ray machine while removing it
14 from a Schryver company vehicle.

15 3.14 Scott reported the injury to Schryver, including without limitation to Marsters
16 and Ortiz, orally and in writing.

17 3.15 Scott completed and submitted an industrial insurance injury accident
18 occurrence report. Further, an industrial insurance injury accident claim report was
19 completed. However, on information and belief, Schryver never submitted the injury accident
20 report to the Washington State Department of Labor & Industries, and Scott was encouraged
21 not to. Out of fear of negative reprisal and retaliation, Scott elected not to file the injury
22 accident report or complain about it further.

1 3.16 Moreover, this was not the first time that she had injured herself. The first time
2 that she injured herself on the job, Schryver did not allow Scott time to go to a doctor to be
3 examined.

4 3.17 Apart from her work for Schryver, Scott is the Program Coordinator of a
5 breastfeeding support group called Mom2Mom.

6 3.18 In or about May 2012, for the Mom2Mom group, Scott coordinated photographs
7 of various women breastfeeding. The photographer shot photos of some military women
8 breastfeeding in uniform, and the photographs were posted on the Internet.

9 3.19 On or about May 30, 2012, when the photograph had received media attention,
10 Scott told Defendant Trujillo orally and in person about her role in the Mom2Mom group and
11 her activities regarding the photograph of the women breastfeeding in uniform. Two days later,
12 she was fired.

13 3.20 In addition, previously, in or about early May, 2012, Scott had requested shift
14 transfer to the day shift over the preference of a male employee, Janke, who had less seniority
15 than her. Though the day shift transfer was granted it was not without reprisal and Ortiz and
16 Janke began to harass Scott. Ortiz told Scott that, since she "bitched" to get the day shift, he
17 did not tell her ahead of time that she now had to pick up the company vehicle from Janke the
18 night before her shift. Janke complained to Scott in a meeting of the x-ray technologists about
19 Scott getting the day shift. Ortiz called Scott a "baby," "selfish," and "unprofessional."
20 Further, Ortiz was condescending to female employees, played favorites with Janke, and
21 repeatedly stated that the female employees cannot "do anything" and cannot "drive to certain
22 places because [they] are afraid" or words to that effect.
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1 3.21 Scott complained to Ortiz regarding the harassment and gender bias. On
2 information and belief, Ortiz did not report the complaint to his superiors. Rather, Ortiz told
3 Scott not to report it to Trujillo.

4 3.22 In or about May, 2012, Scott orally complained and reported to Trujillo via
5 telephone regarding Ortiz's discriminatory and harassing behavior.

6 3.23 Trujillo encouraged Scott not to file a formal written complaint, stating that it
7 was "not in the best interest of Schryver for her to be filing a complaint" or words to that effect.
8 He said he would take care of it, but, two weeks later, Scott was fired.

9 3.24 On information and belief, Trujillo never filed, processed, arranged for, or
10 forwarded any oral or written report, complaint or summary of what Scott had orally reported.

11 3.25 Trujillo did tell Scott that he agreed that Ortiz's discriminatory and harassing
12 behavior was wrong and told Scott that he would speak with Ortiz.

13 3.26 On information and belief, Trujillo never did speak with Ortiz, because Ortiz
14 and Janke continued to discriminate against and harass Scott. When Scott advised Ortiz of the
15 conduct she reported to Trujillo, Ortiz also admitted that it was wrong, but also told her not to
16 pursue it.
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18 3.27 Ortiz complained to Scott that she "ruined it for all of [them]," and that all the x-
19 ray technologists now had to drive to the office to pick up company vehicles, instead of driving
20 them home. Again, Ortiz was condescending, stating female employees were "babies" and
21 afraid of unsafe neighborhoods; he complained that women cannot do anything. By way of
22 retaliation and further gender bias/harassment, Ortiz and Janke treated Scott with increasing
23 animosity.
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1 3.28 Shortly after complaining and reporting regarding all the above matters, on or
2 about June 1, 2012, Defendants discharged Scott. When asked why she was being discharged,
3 Scott was told: due to the media.

4 3.29 Scott's male coworkers have violated company policies and not been
5 discharged, and have otherwise received disparate, more favorable treatment.

6 **IV. CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**
8 **DISCRIMINATION [RCW 49.60]**

9 4.1 Scott realleges all prior paragraphs as though fully set forth herein.

10 4.2 As the result of these events, Scott was subjected by Defendants to
11 discrimination on the basis of gender (including without limitation pregnancy and
12 breastfeeding) in violation of the Washington Law Against Discrimination, RCW 49.60, *et*
13 *seq.*, including without limitation RCW 49.60.030 and .180.
14

15 4.3 Scott is a female.

16 4.4 Defendants discharged and otherwise treated Scott less favorably than other
17 employees not in the same protected category as her.

18 4.5 Specifically, among other things, Defendants denied and/or failed to maintain
19 her transfer to day shift in favor of a male employee with less seniority. Further, Defendants
20 discharged Scott for alleged pretextual violations of certain types of policies and male
21 employees were not discharged for violating them.

22 4.6 Discrimination was at least a substantial factor in Scott's discharge.

23 4.7 Defendants' actions and omissions proximately caused Scott's damages.
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**SECOND CAUSE OF ACTION
HARASSMENT [RCW 49.60]**

4.8 Scott realleges the foregoing as though fully set forth herein.

4.9 As the result of the foregoing events, Scott was subjected by Defendants to hostile work environment harassment on the basis of gender in violation of the Washington Law Against Discrimination, RCW 49.60, *et seq.*, including without limitation RCW 49.60.030 and .180.

4.10 Defendants and coworkers subjected Scott to hostile work environment harassment because of her gender.

4.11 The hostile work environment harassment was subjectively and objectively unwelcome.

4.12 The hostile work environment harassment was severe and pervasive and affected the terms and conditions of her employment.

4.13 The hostile work environment harassment is imputed to Defendants because Scott tried to stop it, complained about it and reported it, but Defendants did not take prompt, effective remedial action to prevent it and the harassment did not stop.

4.14 Defendants' actions and omissions proximately caused Scott's damages.

**THIRD CAUSE OF ACTION
WAGE DISCRIMINATION DUE TO SEX [RCW 49.12]**

4.15 Scott realleges the foregoing as though fully set forth herein.

4.16 On information and belief, Defendants paid lower compensation to Scott and other female employees than male employees for similar work and/or level of responsibility.

4.17 As the result of the foregoing events, Scott and other women employees were subjected by Defendants to discrimination in the payment of wages as between sexes in

1 violation of the Washington Wage Discrimination Due To Sex Law, RCW 49.12, *et seq.*,
2 including without limitation RCW 49.12.175.

3 4.18 Defendants damaged Scott in that she did not receive the full amount of
4 compensation that she would have received had she not been discriminated against.

5 4.19 Defendants' actions and omissions proximately caused Scott's damages.

6 **FOURTH CAUSE OF ACTION**
7 **WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY**

8 4.20 Scott realleges the foregoing as though fully set forth herein.

9 4.21 Public policy protects, among other things, breastfeeding at the workplace and
10 in places of public accommodation, protects against discrimination on the basis of gender
11 (including pregnancy and breastfeeding), protects against unsafe workplaces, protects
12 employee injury claim filing, protects against infringements of free speech, and protects against
13 unlawful practices regarding medical goods and services.
14

15 4.22 Defendants discharged Scott because she promoted these public policies.

16 4.23 Discharging Scott for promoting these public policies impermissibly jeopardizes
17 these public policies.

18 4.24 There is no overriding justification for Scott's discharge.

19 4.25 As the result of the foregoing events, Defendants wrongfully discharged Scott in
20 violation of public policy.

21 4.26 Defendants' actions and omissions proximately caused Scott's damages.
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1 **FIFTH CAUSE OF ACTION**
2 **RETALIATION [RCW 49.60]²**

3 4.27 Scott realleges the foregoing as though fully set forth herein.

4 4.28 Defendants discharged and otherwise engaged in conduct dissuasive of
5 complaining of discrimination and harassment in retaliation against Scott for complaining
6 about and reporting discrimination and harassment.

7 4.29 Scott has and had a reasonable belief that the conduct of which she complained
8 was discrimination and harassment.

9 4.30 Retaliation was at least a substantial factor in Scott's discharge and other
10 dissuasive conduct.

11 4.31 As the result of the foregoing events, Scott was subjected by Defendants to
12 retaliation in violation of the Washington Law Against Discrimination, RCW 49.60, *et seq.*,
13 including without limitation RCW 49.60.030, .180, and .210.

14 4.32 Defendants' actions and omissions proximately caused Scott's damages.
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16 **SIXTH CAUSE OF ACTION**
17 **DEFAMATION**

18 4.33 Scott realleges the foregoing as though fully set forth herein.

19 4.34 The following statements, published by Schryver, and specifically by its
20 President, Jay Schryver, on or about June 15, 2012, if not other dates as well, in
21 Shine.Yahoo.com are untrue and defamatory; Schryver knows them to be untrue and
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24 ² Scott is considering filing charges of discrimination/retaliation with Washington State Department of Labor &
25 Industries through the Divisions of Industrial Safety and Health as well as Industrial Insurance, respectively, for
discharge in retaliation for complaining regarding workplace safety as well as complaining regarding industrial
injury, prerequisite to filing WISHA/L&I discrimination/retaliation claims. Accordingly, Scott reserves the right
to amend her Complaint at a later appropriate date to add such violations.

1 nevertheless knowingly, willfully, and intentionally published the same, thereby damaging
2 Scott:

3 "Crystal Scott was terminated by the company on June 1st for
4 various legitimate employment-related reasons," he wrote in the
5 statement. "Amongst other things, on the day prior to her
6 termination, Ms. Scott had clocked in to the company's
7 timekeeping system and had been assigned time-sensitive tasks
8 that were wholly ignored. Thereafter, Ms. Scott ignored the
9 company's repeated attempts to contact her to inquire as to her
10 whereabouts and status of her job assignments. When the
11 company finally did get a hold of Ms. Scott, she informed them
12 that she was sick and would not be working. Based on company
13 records – including GPS data from a company van that had been
14 assigned to her – Ms. Scott was actually at a local media outlet
15 conducting personal business, on company time, using company
16 equipment as transportation."

17 4.35 Schryver published false and defamatory language concerning Scott to third
18 parties by giving an oral or written false statement to the media for inclusion in a media report.

19 4.36 Schryver is liable for the intentional acts of its employees committed in the
20 course and scope of their employment.

21 4.37 Schryver had no privilege or other right to publish the statement.

22 4.38 Schryver's actions and omissions proximately caused Scott's damages.

23 4.39 Scott's reputation has been damaged thereby in an amount to be proven at trial.

24 V. RELIEF REQUESTED

25 WHEREFORE, Scott prays for relief and demands judgment against Defendants as
follows:

1. For equitable relief in the form of reinstatement;
2. For all of Scott's special damages, including without limitation lost past and
future compensation and benefits, both back and front pay and other special damages;

1 3. For all of Scott's general damages, including without limitation emotional
2 distress and reputation damages;

3 4. For all expenses, costs, disbursements, and fees, including without limitation
4 any and all reasonable attorneys' fees incurred in bringing this action as provided by any
5 applicable statute, contract, and/or recognized ground in equity;

6 5. For any and all prejudgment interest and/or post-judgment interest that the Court
7 may impose on any judgment awarded to Scott;

8 6. For any and all tax consequences of any judgment; and

9 7. For any further or additional relief that the Court finds equitable, appropriate or
10 just.
11

12 DATED this 26th day of June, 2012.

13 Right This Minute

14 PATTERSON BUCHANAN
15 FOBES LEITCH & KALZER, INC., P.S.

16 

17 By: _____
18 Patricia K. Buchanan, WSBA No. 19892
19 Attorney for Plaintiff Crystal Scott