

CAUSE NO. _____

KELLI LUEVANO and DIANA ELIA
Plaintiffs,

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COUNTY COURT AT LAW

v.

___ COURT AT LAW

**ST. MORITZ SECURITY SERVICES,
INC., and RONNIE SMITH,**

Defendants.

DALLAS COUNTY, TEXAS

PLAINTIFFS’ ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiffs Kelli Luevano and Diana Elia file this Original Petition against Defendants St. Moritz Security Services, Inc. (“St. Moritz Security”) and Ronnie Smith (“Smith”, and collectively with St. Moritz Security, “Defendants”). Plaintiffs pray that Defendants will be held accountable for their actions and for the harm Plaintiffs have suffered as set forth below:

I.
EXECUTIVE SUMMARY

1.01 The right to privacy and the freedom from unwanted intrusion upon one’s body are bedrock principles of our nation. Defendants’ egregious violations of those principles against Ms. Luevano and Ms. Elia (collectively, “Plaintiffs”), among others, is the basis for the instant case.

1.02 St. Moritz Security claims its entire purpose is to provide top-tier, professional private security services, which are calculated to ensure the safety of its clients’ employees, customers, and material goods. Unfortunately, St. Moritz Security epically failed in carrying out that purpose: It recklessly hired a *known* fox to guard the henhouse and now, Plaintiffs and others have suffered the consequences.

1.03 Defendant Ronnie Smith—who had a long and public criminal history when St. Moritz Security hired him—was recently caught, *secretly videotaping several women in private ladies’ restrooms in the prominent Dallas shopping district of Highland Park Village*. Smith’s confirmed victims include Plaintiffs, as well as other female employees and customers, who were recorded without their consent inside several high-profile, luxury retail boutiques, including Vacheron Constantin, for which St. Moritz Security was contracted to provide security services. Indeed, the horrible events giving rise to this action were entirely preventable by St. Moritz Security. Based on Smith’s public criminal history, St. Moritz Security plainly knew or should have known that Smith posed a serious, substantial threat to the safety of precisely those whom St. Moritz Security was contracted to protect. Now, Plaintiffs are forced to sacrifice what privacy they have left in order to protect their rights, help prevent future victims from suffering similar fates, and hold Defendants accountable for their despicable conduct.

II.
DISCOVERY CONTROL PLAN AND CLAIM FOR RELIEF

2.01 Plaintiffs intend to conduct discovery under Level Three pursuant to Texas Rule of Civil Procedure 190.4.

2.02 Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs state that they are seeking monetary relief of over \$1,000,000.

III.
PARTIES

3.01 Plaintiff Kelli Luevano is an individual residing in Texas and may be served through the undersigned counsel in the instant case.

3.02 Plaintiff Diana Elia is an individual residing in Texas and may be served through the undersigned counsel in the instant case.

3.03 Defendant St. Moritz Security Services, Inc., is a corporation, incorporated under the laws of Pennsylvania, with its principal office allegedly located at 4600 Clairton Boulevard, Pittsburgh, Pennsylvania 15236-2114. St. Moritz may be served with process through its Texas registered agent, Corporation Service Company dba CSC – Lawyers Incorporating Service Company, located at 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218, or wherever else it may be found.

3.04 Defendant Ronnie Smith is an individual residing at 1415 Millstream Drive, Dallas, Texas 75232, and he may be served with process at that address, or wherever else he may be found. Upon information and belief, Defendant Smith is currently being held at the Tarrant County Jail, located at 100 N. Lamar Street, Fort Worth, Texas 76196.

IV. JURISDICTION & VENUE

4.01 This Court has personal jurisdiction over Defendant St. Moritz Security because it regularly conducts business in Texas and maintains a registered agent in Texas.

4.02 This Court has personal jurisdiction over Defendant Smith because he is an individual that resides, regularly conducts business in, and has continuing contacts in Texas, including but not limited to, providing security services for a business in Texas throughout all relevant times to this action, and currently being jailed in Texas.

4.03 The Court has jurisdiction over the instant case because the amount in controversy exceeds this Court's minimum jurisdictional limits.

4.04 Venue is proper in Dallas County, Texas, under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1), because a substantial part of the events giving rise to the lawsuit occurred in Dallas County. Venue is also proper in Dallas County, under Tex. Civ. Prac. & Rem. Code § 15.002(a)(2), because it was the county of Defendant Smith's residence at the time the cause of action accrued.

V.
FACTUAL BACKGROUND

5.01 Plaintiffs are employees at the high-end luxury watch retailer, Vacheron Constantin, located in the prestigious, popular Dallas shopping district, Highland Park Village. St. Moritz Security is a massive, national enterprise, which contracts for and provides private security services to high-end luxury retailers across the nation, including Plaintiffs' employer and other luxury retailers throughout Highland Park Village. Defendant Ronnie Smith was employed as a security officer for St. Moritz Security, responsible for ensuring the safety of the people and materials goods located at the Vacheron Constantin where Plaintiffs currently work.

5.02 Defendant Smith was recently arrested after his phone was discovered in a private restroom at the Starbucks in Highland Park Village, where Smith had secretly set it up in order to record Starbucks' patrons and employees as they used the bathroom without their knowledge or consent.¹ Upon getting a search warrant and examining Smith's phone, the authorities discovered the extent of the horrible truth: Smith had taken and retained possession of over 25 video and audio recordings of several individuals (mainly adult females), including both Plaintiffs, during their most vulnerable and exposed moments without their knowledge or consent.

5.03 Smith perpetrated these terrible crimes by installing hidden video cameras and audio recording devices in the private ladies' rooms at various high-profile luxury retail boutiques, including Vacheron Constantin, for which St. Moritz Security was contracted to provide security services. Smith did so with the specific intent of capturing his victims exposed and using the

¹ For reasons which are unknown to Plaintiffs, Smith was allowed back to his post at Vacheron Constantin, employed by St. Moritz Security, for approximately two weeks after his phone was discovered at Starbucks and confiscated by authorities.

bathroom for his own twisted gratification, and potentially that of others², at the expense of the unsuspecting individuals who walked into referenced private restrooms.

5.04 To add insult to injury, Plaintiffs have discovered that Smith had a long and public criminal history involving not only drugs but also violence *at the time he was hired by St. Moritz Security*. Locally, he was charged in 2012 for a domestic violence assault. Further, during the pendency of that case he had two warrants issued: one for violating his bond, and one for failing to appear in court (a felony offense in the State of Texas). While on bond for that assault, he was charged in 2013 with a drug related offense, pled guilty, and was placed on probation.

5.05 Ignoring those red flags, Defendant St. Moritz Security hired Smith. As tragically as this series of unfortunate events has unfolded, it was entirely preventable by St. Moritz Security. Based on Smith's public criminal history—not to mention his constant inappropriate conduct and conversations (particularly, with Plaintiffs and other female employees of the stores he was tasked to safeguard)—St. Moritz Security plainly knew or should have known that Smith posed a serious, substantial threat to the safety of precisely those whom St. Moritz Security was contracted to protect. At best, St. Moritz Security utterly failed to conduct the ordinary diligence required to look into the background of its employee in such a sensitive position and to properly supervise him. At worst, St. Moritz Security hired Smith with knowledge of his troubled background and reckless disregard for the probable consequences of his actions and the welfare of the people he was supposed to keep safe.

² Immediately following Smith's arrest, Defendant St. Moritz Security staffed the Vacheron Constantin where Plaintiffs work with another one of its security officers, who indicated to Plaintiffs that he "recognized [them] from somewhere" and asked Plaintiffs if they knew Defendant Smith. Given that Plaintiffs had never met the new St. Moritz Security officer staffed at their workplace, Plaintiffs became highly suspicious and concerned that Smith had shared or somehow disclosed the contents of his illegal recordings of them with his co-workers at St. Moritz Security.

VI.
CAUSES OF ACTION

Intrusion Upon Seclusion—Against All Defendants

6.01 Plaintiffs incorporate by reference and re-allege all of the foregoing allegations as though fully set for the herein.

6.02 Defendants intentionally intruded on the Plaintiffs' private affairs and solitude when Defendant Smith, while working for Defendant St. Moritz Security, recorded intimate video and audio of Plaintiffs and others while they used the restrooms without their knowledge or consent. Defendant Smith recorded Plaintiffs in various states of intimacy and undress, with the specific intent of capturing them as such in their most vulnerable states. A reasonable person would not expect to be secretly recorded in a private restroom, on the toilet or whilst changing clothes by virtue of going to the bathroom in their place of employment. Defendants' conduct would shock and offend a reasonable person's sense of decency, trust, privacy, dignity, and personal agency.

6.03 As a result of Defendants' conduct described above, Plaintiffs' suffered significant personal injuries, including severe mental anguish which permeates every aspect of their daily lives. Based on the foregoing, Plaintiffs seek actual and punitive damages from Defendants for this count.

Negligence (Hiring, Supervision, and Premises Liability)—Against Defendant St. Moritz Security

6.04 Plaintiffs incorporate by reference and re-allege all of the foregoing allegations.

6.05 Defendant St. Moritz Security possessed a legal duty to protect third parties, including Plaintiffs, from Defendant Smith's actions because Defendant Smith was employed by St. Moritz Security to act as a security officer and protect the employees, customers, and material goods of St. Moritz Security's clients for which it was contracted to provide such services. St.

Moritz Security breached that duty by failing (1) to conduct the ordinary diligence required to look into the background of its employee in such a sensitive position and (2) to properly supervise him.

6.06 A simple background check of ordinary diligence regarding the public information available about Defendant Smith at the time he was hired by Defendant St. Moritz Security would have revealed his long and public criminal history, involving violence and drugs, at the time he was hired by St. Moritz Security. Reasonable and proper supervision of Defendant Smith would have revealed that he was *secretly videotaping several women in private ladies' restrooms* in the prominent Dallas shopping district of Highland Park Village *while on the job*.

6.07 Defendant St. Moritz Security's foregoing breaches of duty proximately caused Plaintiffs to suffer substantial personal injuries, including their severe, constant, and continuing mental anguish, which permeates every aspect of their daily lives.

Gross Negligence (Hiring, Supervision, and Premises Liability)—Against Defendant St. Moritz Security

6.08 Plaintiffs incorporate by reference and re-allege all of the foregoing allegations.

6.09 When viewed objectively from Defendant St. Moritz Security's own standpoint at the time of the above-referenced allegations, given Defendant Smith's long and public criminal history, including violence and drugs, St. Moritz Security's hiring of Defendant Smith as a security officer and failing to properly supervise him while at work involved an extreme degree of risk, considering the probability and magnitude of potential harm to others.

6.10 Defendant St. Moritz Security had actual, subjective awareness of the foregoing risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of others, because St. Moritz Security either (1) performed a background check on Defendant Smith and hired him with actual knowledge of his criminal background or (2) recklessly failed to perform even the most cursory background check of their security officer before placing

him in the sensitive position of responsibility for the safety and protection of its clients' employees, customers, and material goods.

6.11 Defendant St. Moritz Security's foregoing breaches of duty and conscious indifference proximately caused Plaintiffs to suffer substantial personal injuries, including their severe, constant, and continuing mental anguish. Based on the foregoing, Plaintiffs seek actual and punitive damages from Defendant St. Moritz Security for this count.

Violation of the Texas DTPA—Against Defendant St. Moritz Security

6.12 Plaintiffs incorporate by reference and re-allege all of the foregoing allegations.

6.13 Plaintiffs, as employees of Vacheron Constantin, are "consumers" within the meaning of the Texas Deceptive Trade Practices Act, with regard to the security services purchased by their employer from Defendant St. Moritz Security. Tex. Bus. & Com. Code § 17.45; *See Kennedy v. Sale*, 689 S.W.2d 890, 892 (Tex. 1985)

6.14 Defendant St. Moritz Security knowingly and intentionally engaged in false, misleading, or deceptive acts in connection with its lease or sale of security services to Plaintiffs when it either (1) performed a background check on Defendant Smith and hired him with actual knowledge of his criminal background or (2) recklessly failed to perform even the most cursory background check of their security officer before placing him in the position of being responsible for the safety and protection of Plaintiffs. See Tex. Bus. & Com. Code § 17.46(b)(5), (7), and (24); see Tex. Bus. & Com. Code § 17.50.

6.15 The foregoing false, misleading, or deceptive acts knowingly and intentionally engaged in by Defendant St. Moritz Security were a producing cause of significant actual damages suffered by Plaintiffs, including their personal injuries of severe and continuing mental anguish,

which permeates every aspect of their daily lives. Based on the foregoing, Plaintiffs seek actual and punitive damages from Defendant St. Moritz Security for this count.

Intentional Infliction of Emotional Distress—Against All Defendants

6.16 Plaintiffs incorporate by reference and re-allege all of the foregoing allegations.

6.17 In the alternative of the foregoing count, Defendants' conduct complained of also violates the common law, giving rise to a claim for intentional infliction of emotional distress. At all relevant times, as set forth above, Defendant Smith acted intentionally and recklessly, while working for Defendant St. Moritz Security, in surreptitiously recording Plaintiffs' private moments without their knowledge or consent. Those actions, coupled with the emotional impact of being betrayed by someone who was supposed to protect them, led to severe emotional distress suffered by Plaintiffs.

6.18 Defendant Smith's conduct of intentionally placing hidden cameras in private ladies' rooms to record intimate video and audio of Plaintiffs and others while they used the restrooms without their knowledge or consent is extreme and outrageous in its invasion of Plaintiffs' right to dignity, privacy, and solitude. Each of Defendants' acts described above caused Plaintiffs to suffer severe emotional distress and mental anguish for which there must be a remedy, if not by the preceding counts, then by this count. As such, in the alternative, Plaintiffs seek actual and punitive damages from Defendants for this count.

VII.
VICARIOUS LIABILITY

7.01 Defendant St. Moritz Security is vicariously liable for the damages proximately caused to Plaintiffs by virtue of the willful, deliberate, and despicable conduct of its employee, Defendant Smith, who was acting within the course and scope of his employment and agency for

St. Moritz Security at all times relevant to this action and with regard to all of the allegations set forth above.

VIII.
JURY DEMAND

8.01 Plaintiffs assert their right to a trial by jury under Texas Constitution Article 1, § 15, and hereby make this demand for a jury trial at least thirty (30) days before the date this cause is set for trial in accordance with Texas Rule of Civil Procedure 216.

CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer this suit and that this Court grant a judgment in Plaintiffs' favor against Defendants, for the following:

1. Compensatory damages, including economic harm and mental anguish, and punitive damages in an amount to be determined at trial;
2. Recovery of Plaintiffs' reasonable and necessary attorneys' fees and expenses incurred in filing and in the prosecution of this action;
3. Any and all costs and reasonable attorneys' fees incurred in any and all related appeals and collateral actions (if any);
4. All costs of court;
5. Pre- and post-judgment interest on all sums at the maximum rate allowed by law; and
6. Such other and further relief, whether at law or in equity, to which Plaintiffs may be justly entitled.

Respectfully submitted,

MCCATHERN SHOKOUHI EVANS

/s/ Shane Eghbal

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