

IN THE COURT OF COMMON PLEAS, SUMMIT COUNTY, OHIO

CASE NUMBER: CV-2021-04-1377

DAVID NUNLEY
77 Atterbury Blvd.
#105
Hudson, OH, 44236

-VS-

SUMMONS

ARGOS HEALTH, INC.
1742 Georgetown Rd.
Ste. G
Hudson, OH 44236

TO the following:

ARGOS HEALTH, INC.
1742 Georgetown Rd.
Ste. G
Hudson, OH 44236

You have been named as a defendant(s) in a complaint filed in the Summit County Court of Common Pleas, Summit County Courthouse, 205 S. High St., Akron, Ohio, 44308.

A copy of the COMPLAINT is attached hereto. The name and address of the Plaintiff's attorney is:

STEPHAN I. VOUDRIS
8401 Chagrin Road, Suite 8
Chagrin Falls, OH 44023

You are hereby summoned and required to serve upon the attorney listed above, or upon the party if they have no attorney of record, a copy of an answer to the COMPLAINT within twenty-eight (28) days after service of this summon on you, exclusive of the day of service. Your answer must be filed with the Court within three days after the service of a copy of the answer on the attorney, or upon the party, if there is no attorney of record.

If you fail to appear and defend, judgment may be rendered against you for the relief demanded in the COMPLAINT.

Sandra Kurt
Summit County Clerk of Courts

April 30, 2021

IN THE COURT OF COMMON PLEAS, SUMMIT COUNTY, OHIO

CASE NUMBER: CV-2021-04-1377

DAVID NUNLEY
77 Atterbury Blvd.
#105
Hudson, OH, 44236

-VS-

SUMMONS

ARGOS HEALTH, INC.
1742 Georgetown Rd.
Ste. G
Hudson, OH 44236

TO the following:

DAVID ROTHGERBER
1742 Georgetown Rd.
Ste. G
Hudson, OH 44236

You have been named as a defendant(s) in a complaint filed in the Summit County Court of Common Pleas, Summit County Courthouse, 205 S. High St., Akron, Ohio, 44308.

A copy of the COMPLAINT is attached hereto. The name and address of the Plaintiff's attorney is:

STEPHAN I. VOUDRIS
8401 Chagrin Road, Suite 8
Chagrin Falls, OH 44023

You are hereby summoned and required to serve upon the attorney listed above, or upon the party if they have no attorney of record, a copy of an answer to the COMPLAINT within twenty-eight (28) days after service of this summon on you, exclusive of the day of service. Your answer must be filed with the Court within three days after the service of a copy of the answer on the attorney, or upon the party, if there is no attorney of record.

If you fail to appear and defend, judgment may be rendered against you for the relief demanded in the COMPLAINT.

Sandra Kurt
Summit County Clerk of Courts

April 30, 2021

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

DAVID NUNLEY
77 Atterbury Blvd., #105
Hudson, OH 44236

Plaintiff,

v.

ARGOS HEALTH, INC.
1742 Georgetown Rd., Ste. G
Hudson, OH 44236

and

DAVID ROTHGERBER
1742 Georgetown Rd., Ste. G
Hudson, OH 44236

Defendants.

) Civil Action No. _____

) Judge _____

)
) **COMPLAINT FOR RACE**
) **DISCRIMINATION, SEX**
) **DISCRIMINATION, RETALIATION,**
) **HOSTILE WORK ENVIRONMENT,**
) **AIDING AND ABETTING, AND**
) **NEGLIGENT TRAINING,**
) **RETENTION, AND SUPERVISION**

) **JURY DEMAND ENDORSED HEREON**

Plaintiff David Nunley (“Plaintiff”) alleges as follows for his Complaint against Defendants Argos Health, Inc. (“Argos”) and David Rothgerber (“Rothgerber”) (collectively, “Defendants”):

1. Plaintiff is African American, male, and worked for Defendants in Summit County, Ohio as a Claims Resolution Specialist.
2. Defendants hired Plaintiff on about September 16, 2019.
3. Defendants terminated Plaintiff’s employment on about February 24, 2020.
4. Plaintiff was qualified for his job.
5. Plaintiff was paid bonuses while working for Defendants.
6. Other African American employees of Defendants complained about race discrimination by Defendants, and these African American employees also had their employments terminated around the same time as Plaintiff.

7. This Court has subject matter and personal jurisdiction over the claims raised in this Complaint.

8. Venue is proper in Summit County, Ohio.

9. Plaintiff has suffered damages in excess of \$25,000.

10. Plaintiff has hired the undersigned counsel and has agreed to pay them reasonable attorney's fees and costs if they are successful on one or more of the claims set forth herein.

11. Plaintiff was the only African American male employee in the office in which he worked for Defendants, and this office consisted of about thirty employees.

12. Defendants treated Plaintiff differently than they treated Caucasian and female employees.

13. From the start of Plaintiff's employment, he endured discrimination based on his race, and Plaintiff complained that he was being targeted because of his race.

14. Plaintiff's first supervisor was eventually terminated, but her replacement continued to discriminate against Plaintiff.

15. Rachelle Theiss, who replaced Plaintiff's original supervisor, and David Rothgerber, Argos's President, both continued to target Plaintiff because of his race.

16. On or about February 11, 2020, during a meeting in Defendants' conference room, Plaintiff had his phone sitting (though untouched and unused) on the desk in front of him. Other employees in the conference room during this meeting also had their phones on the desk. After the meeting, Plaintiff's supervisor, Rachelle Theiss, instructed another supervisor to reprimand Plaintiff, and only Plaintiff, for having his phone on the desk.

17. The disparate treatment between Plaintiff and Caucasian and female employees was evident, for example, in its enforcement of certain rules, such as eating at desks.

18. All of Defendants employees ate food at their desks, but Defendants singled out Plaintiff for having food at his desk. During one instance, on about January 23, Rachele Theiss walked past numerous Caucasian and female employees who were eating at their desks and reprimanded Plaintiff for this exact same behavior. During a separate incidence in which Rothgerber again reprimanded Plaintiff for eating while others were also eating, numerous co-workers jumped to Plaintiff's defense and exclaimed that others were doing exactly the same thing that Plaintiff was doing. Rothgerber then singled Plaintiff out during a meeting for eating food at his desk.

19. Defendants also treated Plaintiff differently than Caucasian and female employees by disciplining him for taking early lunches and for having his phone on the desk at a meeting—actions that did not earn discipline for Caucasian or female employees. Defendants did not have rules or guidelines regarding when breaks or lunches could be taken. Indeed, Rothgerber explicitly said that he did not care about how Defendants' employees came about the hours, as long as they reached forty hours each week.

20. Plaintiff brought a six-pack of beer as a gift for another employee at the office. After he did this, he was disciplined for bringing in the alcohol. Caucasian employees regularly brought in alcohol as gifts for other employees and they never received any discipline for this. Indeed, on one occasion, a Caucasian female employee brought in an open bottle of wine and Rothgerber joked with this employee about her drinking on the job. She received no discipline for this. Rothgerber himself also planned and executed a company-wide alcohol giveaway during Christmas.

21. On about January 23, 2020, Plaintiff complained to Human Resources Director Paige Allen via email about the discrimination that he was experiencing. In the email, Plaintiff

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