

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MEISHA WILDER,	)	Case No: 07-CV-4491
	)	
	)	Judge William J. Hibbler
	)	
Plaintiff,	)	
	)	
V.	)	
	)	
	)	
WHITE CASTLE SYSTEM, INC., and	)	
WESTEC INTERACTIVE SECURITY,	)	
INC.,	)	
	)	
	)	
Defendants.	)	

**PLAINTIFF'S LOCAL RULE 56.1 STATEMENT IN RESPONSE TO  
WESTEC'S F.R.C.P. MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Plaintiff, through her attorneys, VRDOLYAK LAW GROUP, responding to Defendant's, WHITE CASTLE SYSTEM, INC., hereby submits its statement of uncontested facts; states as follows:

Parties

1. The Plaintiff is MEISHA WILDER.
2. The Defendant is WHITE CASTLE SYSTEM, INC.
3. The Defendant is WESTEC INTERACTIVE SECURITY, INC.

Jurisdiction

1. Jurisdiction was conferred on this court pursuant to 28 U.S.C § 1441 and 28 U.S.C. § 1332 via removal petition.

LR 56.1(b)(3)(B) Response to Defendant's Statement of Facts

1. Plaintiff agrees with paragraph one of Defendant statement.
2. Plaintiff agrees with paragraph two of Defendant statement.
3. Plaintiff agrees with paragraph three of Defendant statement.
4. Plaintiff agrees with paragraph four of Defendant statement.
5. Plaintiff agrees with paragraph five of Defendant statement.
6. Plaintiff agrees with paragraph six of Defendant statement.
7. Plaintiff agrees with paragraph seven of Defendant statement.
8. Plaintiff agrees with paragraph eight of Defendant statement.
9. Plaintiff agrees with paragraph nine of Defendant statement.
10. Plaintiff agrees with paragraph ten of Defendant statement.
11. Plaintiff agrees with paragraph eleven of Defendant statement.
12. Plaintiff agrees with paragraph twelve of Defendant statement.
13. Plaintiff agrees with paragraph thirteen of Defendant statement.
14. Plaintiff agrees with paragraph fourteen of Defendant statement.
15. Plaintiff agrees with paragraph fifteen of Defendant statement.
16. Plaintiff agrees with paragraph sixteen of Defendant statement.
17. Plaintiff agrees with paragraph seventeen of Defendant statement.
18. Plaintiff agrees with paragraph eighteen of Defendant statement.
19. Plaintiff agrees with paragraph nineteen of Defendant statement.
20. Plaintiff agrees with paragraph twenty of Defendant statement.
21. Plaintiff agrees with paragraph twenty one of Defendant statement.

22. Plaintiff disagrees with paragraph twenty two of Defendant statement in as much as Plaintiff was a third party beneficiary of said contract.
23. Plaintiff agrees with paragraph twenty three of Defendant statement.
24. Plaintiff agrees with paragraph twenty four of Defendant statement.
25. Plaintiff agrees with paragraph twenty five of Defendant statement.
26. Plaintiff agrees with paragraph twenty six of Defendant statement.
27. Plaintiff agrees with paragraph twenty seven of Defendant statement except that Plaintiff does not attest to the accuracy of the time.
28. Plaintiff agrees with paragraph twenty eight of Defendant statement except that Plaintiff does not attest to the accuracy of the time.
29. Plaintiff disagrees with paragraph twenty nine of Defendant statement. Only the verbal altercation had stopped, not the hostility between the two participants. Plaintiff testified that the other participant had friends and essentially was waiting for Darius outside. (Plaintiff Deposition pages 181-182 lines 22-11). In addition, Drew Dannis testified that he could sense the hostility between to two persons and specifically included how they left as a factor to why he initially called the police. (Dannis Deposition page 47-48 lines 17-2).
30. Plaintiff agrees with paragraph thirty of Defendant statement.
31. Plaintiff agrees with paragraph thirty one of Defendant statement except that Plaintiff does not attest to the accuracy of the time.
32. Plaintiff agrees with paragraph thirty two of Defendant statement except that Plaintiff does not attest to the accuracy of the time.

33. Plaintiff agrees with paragraph thirty three of Defendant statement.
34. Plaintiff agrees with paragraph thirty four of Defendant statement.
35. Plaintiff agrees with paragraph thirty five of Defendant statement.
36. Plaintiff agrees with paragraph thirty six of Defendant statement.
37. Plaintiff agrees with paragraph thirty seven of Defendant statement but  
Plaintiff does not attest to the accuracy of the time shown on the video  
however.
38. Plaintiff agrees with paragraph thirty eight of Defendant statement except that  
Plaintiff does not attest to the accuracy of the time.
39. Plaintiff agrees with paragraph thirty nine of Defendant statement.
40. Plaintiff agrees with paragraph forty of Defendant statement except that  
Plaintiff does not attest to the accuracy of the time.
41. Plaintiff disagrees with paragraph forty one of Defendant statement because  
Plaintiff does not attest to the accuracy of the time and Defendant's statement  
of fact does not specify what call it is referring to.
42. Plaintiff agrees with paragraph forty two of Defendant statement.
43. Plaintiff agrees with paragraph forty three of Defendant statement.
44. Plaintiff agrees with paragraph forty four of Defendant statement.
45. Plaintiff agrees with paragraph forty five of Defendant statement.
46. Plaintiff agrees with paragraph forty six of Defendant statement.
47. Plaintiff agrees with paragraph forty seven of Defendant statement.
48. Plaintiff agrees with paragraph forty eight of Defendant statement.
49. Plaintiff agrees with paragraph forty nine of Defendant statement.

50. Plaintiff agrees with paragraph fifty of Defendant statement.
51. Plaintiff agrees with paragraph fifty one of Defendant statement.
52. Plaintiff agrees with paragraph fifty two of Defendant statement.
53. Plaintiff agrees with paragraph fifty three of Defendant statement.
54. Plaintiff agrees with paragraph fifty four of Defendant statement.
55. Plaintiff agrees with paragraph fifty five of Defendant statement.
56. Plaintiff agrees with paragraph fifty six of Defendant statement.
57. Plaintiff agrees with paragraph fifty seven of Defendant statement.
58. Plaintiff agrees with paragraph fifty eight of Defendant statement.
59. Plaintiff agrees with paragraph fifty nine of Defendant statement.
60. Plaintiff agrees with paragraph sixty of Defendant statement.
61. Plaintiff agrees with paragraph sixty one of Defendant statement.
62. Plaintiff agrees with paragraph sixty two of Defendant statement.
63. Plaintiff agrees with paragraph sixty three of Defendant statement.
64. Plaintiff agrees with paragraph sixty four of Defendant statement.
65. Plaintiff agrees with paragraph sixty five of Defendant statement.
66. Plaintiff agrees with paragraph sixty six of Defendant statement.
67. Plaintiff agrees with paragraph sixty seven of Defendant statement.
68. Plaintiff agrees with paragraph sixty eight of Defendant statement .
69. Plaintiff agrees with paragraph sixty nine of Defendant statement.
70. Plaintiff agrees with paragraph seventy of Defendant statement.
71. Plaintiff agrees with paragraph seventy one of Defendant statement.

Plaintiff Fact Statements

1. On April 23, 2003 a three year extension was executed between Defendant, Westec, and Co-Defendant, White Castle. The dates of service included May 1, 2003 through May 1, 2006. (See Exhibit A). Nicholas Zuk, corporate counsel for White Castle, signed the April 23<sup>rd</sup> 2003 extension of services. (Exhibit F as Nicholas Zuk deposition page 10 lies 12-23).
2. Pursuant to that extension 3(three) guard tours were to be performed daily by Westec. (Exhibit A).
3. Guard tours are not defined in the Extension, the 1998 contract for Westec services(Exhibit B), or the Visual Command Center Manual(Exhibit C).
4. No times for these guard tours are provided in the extension. (Exhibit A)
5. No times are provided for video tours in the Extension. (Exhibit A)
6. Video tours are not mentioned in the Extension as evidenced in Exhibit A.
7. Activity logs for the Dolton White Castle show four tours a day between the dates of 12/01/04 through 05/24/05. (Activity Log as Exhibit D).
8. Per an email from Mary Guzman, she removed an extra tour because of a technical glitch. (Emails from Mary Guzman Exhibit E).
9. An updated emergency contact list was sent to Westec in June of 2004. (Exhibit E/F).
10. Voice down times were noted on the updated contact list designating 10:00 a.m., 7:00 a.m. and 3:00 a.m. No time zone is designated for the updated contact list.

11. Nicholas Zuk, was the White Castle employee that executed the extension.

His office is in Columbus, Ohio, an eastern time zone state. (Exhibit A/G)

12. Mr. Zuk did not know what time the tours were to be performed. (Deposition of Nicholas Zuk as Exhibit G page 16 lines 14-19). In fact, when Westec's counsel asked Mr. Zuk if he knew that tours were to be performed, he was specifically asked if the tour times were "12:00 a.m., 4:00 a.m. and 5:00 p.m. central standard time." (Exhibit G at page 16 lines 14-19).

13. Don Desender did not know that Westec would be performing these tours at 12:00 a.m., 4:00 a.m. and 5:00 p.m. (Desender deposition as Exhibit H page 13 lines 17-20; page 21 lines 14-19). Mr. Desender believed that Westec's responsibilities were "monitoring, random tours" and responding to activations via the pendants and the red phone. (Exhibit H at page 12 lines 4-11).

13. Westec recognized in its "Scope of Services" the following:

"In general, the Westec Interactive system is being implemented in lieu of guards at designated locations. \*\*\* Confrontational incidents have occurred involving customers and employees entering and leaving the site \*\*\* Most locations are within designated areas that cater to late night crowds and therefore experience customers who are intoxicated or impaired due to other substance use. The surrounding neighborhoods seem to be one source of the problem. It is important during tours to note all suspicious activity."

(Exhibit B Page 1)

14. Mary Guzman was involved in receiving the White Castle order and then setting up the account in the Westec system so that the system was capable of receiving the services sold to White castle. (Deposition of Mary Guzman as Exhibit I page 19 lines 3-8).

15. Ms. Guzman claims that White Castle set up very specific tour times via an email "in the year of '03 or '04 from White Castle" that had dictated those times. (Exhibit I page 35 lines 1-10).
16. Ms. Guzman no longer has the email, however. (Exhibit I page 36 lines 1-3).
17. The email stood out in Ms Guzman's mind because 1) White Castle was one of Westec's first large customers who requested specific tour times across the board, and; 2) some of White Castles different regions had different times and that some of those times conflicted with some of Westec's high-traffic times. (Exhibit I page 40 lines 9-25).
18. Because of the specific time request, Ms. Guzman had to go to her supervisor and request special approval to add those tours. (Exhibit I page 40 lines 9-25).
19. Westec had 1,847 accounts to monitor daily. Ms. Guzman estimated approximately 90 accounts per hour were in the queue. (Exhibit I page 47 lines 8-17).
20. Ms. Guzman testified that high volume times were 5 p.m. to 7 p.m. Pacific standard time and 5 a.m. to 7 a.m. Pacific standard time. (Exhibit I page 59-60 lines 19-3).
21. If White Castle did not specifically request certain tour times, then Westec would on its own set tour times for lower volume times. (Exhibit I page 60 lines 4-8).
22. Westec schedules less tours during high volume times based on the expectations of alarms. (Exhibit I page 65 lines 11-17).
23. At the Command Center, Westec staffs basically tow types of employees.



- Customer service specialists handle tours only. (Exhibit I page 67 lines 2-13)
24. Ms Guzman estimated that on average there would be two customer service specialists per hour or on shift in any one hour. (Exhibit I 67 lines 14-22).
25. Intervention specialists can respond to alarms in addition to conducting tours. (Exhibit I 67 lines 2-13). Ms Guzman estimated that an average of six intervention specialist on duty during a certain hour or shift. (Exhibit I pages 67-68 lines 23-2).
26. Westec was hired by White Castle as a provider of security. (Exhibit I page 68 lines 20-23).

Respectfully submitted

/s/ Benjamin B. Kelly  
Attorney for Plaintiff

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