2000 WL 1162029
United States District Court, S.D. Illinois.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff
v.
WAL–MART STORES, INC, Defendant.

No. 99–CV–106–DRH. | June 29, 2000.

Opinion

HERNDON, J.

***1** The United States Equal Employment Opportunity Commission (the "EEOC") filed suit against Wal–Mart Stores, Inc. on behalf of Tammy Williams. Williams worked at Wal–Mart's Glen Carbon, Illinois store from November 26, 1996 until September 4, 1997. She filed an EEOC charge against Wal–Mart following termination of her employment. That charge resulted in the action filed by the EEOC here. The EEOC's complaint alleged that Wal–Mart violated Title VII, *42 U.S.C. § 2000e, et seq.,* by subjecting Williams to unlawful sexual harassment (at the hands of her supervisor, Boyd Lance) and by discharging Williams in retaliation for complaining about the harassment.

The case proceeded to trial in March 2000. On March 23, 2000, the jury returned three verdicts:

1) On the sexual harassment claim, the jury found in favor of Defendant Wal–Mart.
2) On the retaliation claim, the jury found in favor of the EEOC and awarded Williams' $7,000 in lost income or "back-pay."[1]

3) The jury found that Wal–Mart had acted with malice or reckless indifference to Williams' federally protected rights and awarded Williams $100,000 in punitive damages.

Judgment was entered accordingly on March 27, 2000. On April 6th, the EEOC moved the Court to modify its judgment to include injunctive and equitable relief. The EEOC asks, *inter alia,* that the Court permanently enjoin Wal–Mart from engaging in harassment, retaliation, or any other discriminatory employment practices, order Wal–Mart to institute policies protecting employees from retaliation, and order Wal–Mart to notify the EEOC of any internal complaint of sexual harassment or retaliation made by an employee at Wal–Mart's Glen Carbon store.

On April 7th, Wal–Mart moved for judgment as a matter of law, or in the alternative, for remittitur. Wal–Mart primarily contends that since the jury awarded only equitable relief ($7000 in back-pay), there are no compensatory damages to support the $100,000 punitive damage award. Alternatively, Wal–Mart seeks remittitur, insisting that the $100,000 punitive damage award is excessive in light of the jury's failure to award nominal or compensatory relief (Doc. 65, p. 7). In short, Wal–Mart wants the punitive damage award vacated or reduced to a figure no higher than $28,000 (four times the award of back pay). Wal–Mart also asserts–in an April 20 response to the EEOC's motion to modify judgment–that the EEOC's "Bill of Costs must ... be reduced to reflect the fact that Plaintiff was only partially successful" (Doc. 69, p. 1).

II. Analysis

A. *The EEOC's Bill of Costs and Wal–Mart's Objections*

On April 6, 2000, the EEOC submitted a Bill of Costs seeking to recover $5,387.45. The Bill included the standard categories of recoverable costs, such as witness fees, court reporting fees, copying charges, and subpoena fees. FEDERAL RULE OF CIVIL PROCEDURE 54(d) provides that costs (other than attorneys' fees) shall be allowed as a matter of course to the prevailing party "unless the Court otherwise directs...." The Seventh Circuit repeatedly has recognized that Rule 54 gives prevailing parties a "strong presumptive entitlement" to recover costs. *See, e.g., Perlman v. Zell, 185 F.3d 850, 858 (7th*

Cir.1999)(citing Luckey v. Baxter Healthcare Corp., 183 F.3d 730 (7th Cir.1999)).

***2** In mixed result cases such as this, the district court has "especially broad discretion" to award or deny costs. *Gavoni v. Dobbs House, Inc., 164 F.3d 1071, 1075 (7th Cir.1999)(citing Testa v. Village of Mundelein, 89 F.3d 443, 447 (7th Cir.1996)).* But district judges must provide "at least a modicum of explanation when entering an award of costs." *Cengr v. Fusibond Piping Systems, Inc., 135 F.3d 445, 454 (7th Cir.1998).*[2] In *First Commodity Traders, Inc. v. Heinold Commodities, Inc., 766 F.2d 1007, 1015 (7th Cir.1985),* the Seventh Circuit determined that "under Rule 54(d), the 'prevailing party' is the party who prevails 'as to the substantial part of the litigation." ' *See also Slane v. Mariah Boats, Inc., 164 F.3d 1065, 1068 (7th Cir.1999)* ("The district court correctly noted that when one party gets substantial relief it "prevails" even if it doesn't win on every claim."), *cert. denied, 527 U.S. 1005, 119 S.Ct. 2342, 144 L.Ed.2d 239 (1999).*

Here, the EEOC succeeded on the retaliation claim, prevailing as to a substantial part of this litigation. The EEOC qualifies as a prevailing party entitled to recover costs under Rule 54(d). The question is how much of the costs included on the EEOC's Bill of Costs are properly taxable against Wal–Mart.

Statutorily authorized costs include court reporter fees, witness fees (including travel and subsistence expenses for witnesses who testified at trial), copying fees for documents reasonably necessary to the case, and fees for depositions reasonably necessary to the case. *See 28 U.S.C. § 1920; 28 U.S.C. § 1821; M.T. Bonk Co. v. Milton Bradley Co., 945 F.2d 1404, 1410* ("The expense of copying materials reasonably necessary for use in a case [is] recoverable ... under 28 U.S.C. § 1920(4)."); *Cengr, 135 F.3d at 454* (As to deposition fees, the "proper inquiry is whether the deposition was 'reasonably necessary' at the time it was taken, not whether it was used in a motion or in court.").

Allowable costs in most cases are limited to the categories listed in § 1920. "Expenses that are not on the statutory list must be borne by the party incurring them." *Collins v. Gorman, 96 F.3d 1057, 1058 (7th Cir.1996).* One procedural question must be addressed before resolving the amount of costs recoverable by the EEOC. That question stems from the chronological sequence involving Wal–Mart's objections to the Bill of Costs and the Clerk of Court's taxation of those costs.

The EEOC timely filed its Bill of Costs (within ten days of entry of the final judgment). Under the Local Rules of this Court, Wal–Mart had ten days after being served with the Bill to "file specific objections ... with a statement of reasons for the objections." *Local Rule 54.2(b)(4)* states that after the expiration of that ten-day period, if no objection has been filed, the Clerk of Court shall tax and enter the requested costs. In the ten-day period following entry of judgment here, Wal–Mart did not file a pleading entitled "Objection to Bill of Costs." Instead, Wal–Mart tendered its objections in a pleading captioned "Defendant's Response in Opposition to Plaintiff's Motion to Amend Judgment." The Clerk reviewed the docket sheet, saw no objections, and proceeded to tax costs under *Local Rule 54.2(b)(4).*

***3** Nonetheless, Wal–Mart's objections were timely presented under one of two Local Rules provisions. First, it appears that they were filed within ten days of service of the Bill of Costs on Wal–Mart–counting ten business days from April 6th to April 20th, and assuming that Wal–Mart was served with the Bill of Costs the same day it was filed in this Court. *See Local Rule 54.2(b)(3).* The Clerk of Court simply was not aware of any objections when he taxed costs herein.

Second, even if Wal–Mart's April 20th pleading is not treated as a pre-taxation objection, the pleading qualifies under *Local Rule 54.2(b)(5),* which provides for *post*-taxation review of the Clerk's action. Any party objecting to the amount taxed by the Clerk may file a motion with the District Judge assigned to the case. The motion must be filed and served on opposing counsel within five days after the movant receives notice of the amount taxed by the Clerk.

Having determined that Wal–Mart timely objected to the Bill of Costs, the Court analyzes the substance of those objections. Wal–Mart challenges the EEOC's recovery of costs for certain depositions taken, subpoenas served, and medical records copied. As to the depositions, Wal–Mart emphasizes that several deponents testified exclusively as to the sexual harassment claim, and those costs cannot be assessed because the EEOC "lost" that claim entirely. As to the witness fees listed on the Bill of Costs, Wal–Mart points out that not all of these witnesses were called at trial. As to the copying charges, Wal–Mart claims that the $178.80 claimed by the EEOC represents a copying charge for medical records that related solely to Williams' compensatory damage claim, which the jury rejected completely.

This Court agrees with many–but not all–of these objections. Wal–Mart should not have been assessed for the depositions of Albert Lyons ($392.35), Boyd Lance ($464.30), Tim Strack ($274.35), and Shannon Moore ($694.90), because their testimony did no go to the retaliation claim on which the EEOC prevailed. The disallowed costs from this category total *$1,825.90.*

Nor should Wal–Mart be assessed for subpoena service fees for the witnesses who testified as to the emotional distress claim rejected by the jury (Ginny and Derrell Williams) or the witnesses who testified on the unsuccessful sexual harassment claim (Shannon Moore, Boyd Lance, Rita Meyer, and Sherry Pittman). The Court disagrees with Wal–Mart's assertion that the $40 subpoena service fee cannot be recovered for Miranda Colley, who did not testify at trial. Colley's failure to testify is not dispositive of whether her subpoena service fee is recoverable.

In *Spanish Action Comm. of Chicago v. City of Chicago, 811 F.2d 1129, 1138 (7th Cir.1987),* the Seventh Circuit concluded that the trial court "erred in concluding that physical presence in the courtroom is necessary to recovering witness fees." The Court explained that witness fees compensate witnesses for their *availability* to testify, not their physical presence or actual testimony at trial. Similarly, *Haroco, Inc. v. American Nat'l Bank and Trust Co. of Chicago, 38 F.3d 1429, 1442 (7th Cir.1994),* holds that costs may be awarded for fees paid to witnesses who were subpoenaed for deposition, but not actually deposed. Thus, a subpoena service fee may be recovered for a witness who was subpoenaed for trial but not actually called to testify, if "it was reasonably expected that his attendance would be necessary and he ... held himself in readiness to attend." *Id. See also Hurtado v. United States, 410 U.S. 578, 584–85, 93 S.Ct. 1157, 35 L.Ed.2d 508* (1973) (noting that 28 U.S.C. § 1821 covers witnesses who have been summoned and are "in readiness to testify" but whose physical presence in the courtroom is not needed).

***4** The EEOC may recover the subpoena fee for Miranda Colley. The EEOC may *not* recover the subpoena fees for Ginny Williams ($40), Derrell Williams ($40), Shannon Moore ($40), Boyd Lance ($45), Rita Meyer ($40), and Sherry Pittman ($40). The disallowed subpoena service fees total *$245.*

The EEOC may not recover witness attendance fees for persons called to testify on the harassment claim rejected by the jury (Sherry Pittman, Rita Meyer) or for the emotional distress damage claim rejected by the jury (Derrell Williams, Ginny Williams). The Court also disallows the witness fee for Tammy Williams herself. Although the EEOC was the named plaintiff in this case, Williams is the charging party and a true party in interest. The general rule in this Circuit holds that "parties may not normally collect witness fees," and "the district court may not *tax* witness fees for party witnesses under 28 U.S.C. § 1920(3)." *Haroco, 38 F.3d at 1442.* The disallowed witness fees ($46.50x5 witnesses) total *$232.50.*

Finally, the EEOC may not recover the *$178.80* incurred in copying medical records used to support Tammy Williams' unsuccessful compensatory damage claims. The total amount of improperly taxed costs is $2,482.20. Thus, the EEOC's recoverable costs are hereby reduced from $5,387.45 to $2,905.25.

B. ***Additional Relief Requested by the EEOC***

As mentioned in the introductory section above, the EEOC asks this Court to provide a host of injunctive and equitable remedies. Those remedies include: permanently enjoining Wal–Mart from engaging in harassing, intimidating or retaliatory practices; ordering Wal–Mart to institute policies which protect employees from retaliation for statutorily protected activity; ordering Wal–Mart to notify the EEOC of internal complaints of harassment or retaliation; ordering Wal–Mart to post in its Glen Carbon store a notice regarding employees' rights under federal anti-discrimination statutes; and ordering Ray Rabbitt (a Wal–Mart District Manager) suspended without pay for a thirty-day period. Wal–Mart responded to these requests in the April 20th memorandum.

Having reviewed both parties' briefs, the Court agrees to award some of the additional relief sought by the EEOC. The Court does not believe it necessary or appropriate to permanently enjoin Wal–Mart from discharging employees based on their exercise of activity protected under Title VII. Federal law*–42 U.S.C. § 2000e–3(a)* –already forbids such conduct by Wal–Mart, and an injunction repeating this prohibition would "add nothing." *See, e.g., McKenzie v. City of Chicago, 118 F.3d 552, 555 (7th Cir.1997)* (finding it inappropriate to enjoin city from demolishing buildings where such injunction "added nothing" to protections already available to building owners under existing statutes and ordinances). The EEOC's commencement of this suit demonstrates that Wal–Mart will be held accountable for violations of Title VII.

***5** Nor will the Court order Wal–Mart to suspend Ray Rabbitt without pay or order Wal–Mart to issue Rabbitt a written warning. Rabbitt was not a party to this case. Moreover, the Seventh Circuit consistently has warned the federal courts from acting as "a super personnel department" and second-guessing or directing employers' disciplinary decisions. *See Wollenburg v. Comtech Manufacturing Co ., 200 F.3d 973, 976 (7th Cir.2000); Hasham v. California State Board of Equalization, 201 F.3d 1035, 1046 (7th Cir.2000); Brill v. Lante Corp., 119 F.3d 1266, 1272 (7th Cir.1997).*

However, this Court can and will ORDER Wal–Mart, for a period of two years commencing on the date this Order is signed,

to provide written notification to the EEOC's St. Louis District Office (directed to the attention of the Regional Attorney), 1222 Spruce Street, St. Louis, Missouri, 63103, of the discharge of any employee from Wal–Mart's Glen Carbon store. Wal–Mart shall provide this notification within two weeks of the employee's termination date. The notification shall include: (a) the employee's name and address; (b) the reason for the discharge of employment; and (c) the name, business address and telephone number of any Wal–Mart employee, manager or supervisor who made (or assisted in) the decision to discharge the employee.

Furthermore, the Court ORDERS Wal–Mart to post a notice in its Glen Carbon store announcing that as a result of a trial, jury verdict and judgment against Wal–Mart in federal court, Wal–Mart is reminding its employees of their rights under federal anti-discrimination laws such as Title VII. The content of this notice shall be decided by the Court with input from the parties hereto, but the wording should be simple and concise. The notice should describe the results of this case, advise/ remind the employees of their federally protected rights, and disclose the place(s) where employees can file complaints or charges.

The parties have until July 11, 2000 to submit proposed notices for the Court's review. The Court encourages counsel for the parties to attempt to agree upon the wording for this notice. The Court does *not* intend to hold a hearing on this issue. The Court will review the parties' submissions, decide on the content of the notice, and issue an Order setting a date by which Wal–Mart must begin posting the notice in the Glen Carbon store. The notice shall be printed in easily readable type/ font and posted in a location readily visible to store employees, perhaps the area already reserved for other employee notices required by law.

Furthermore, the Court ORDERS Wal–Mart to place in Williams' personnel file a memo with the following text:

> Subsequent to Ms. Williams' termination on September 4, 1997, she filed a charge with the United States Equal Employment Opportunity Office or "EEOC." The EEOC brought suit on Ms. Williams' behalf in the United States District Court for the Southern District of Illinois, Cause No. 99–cv–0106–DRH. On March 23, 2000, the jury determined that Ms. Williams' discharge was motivated by Wal–Mart's effort to retaliate against Ms. Williams for engaging in legally protected activity. The jury awarded damages on the retaliation claim, and the Court entered judgment requiring Wal–Mart to pay Ms. Williams lost income (or "back-pay") and punitive damages.

***6** This memo must be disseminated by Wal–Mart any time Ms. Williams' employment records are requested by anyone lawfully entitled to receive said records, or upon Ms. Williams' request.

C. *Wal–Mart's Motion for Judgment as a Matter of Law or Remittitur*

Federal Rule of Civil Procedure 50(a) states that if during trial a party has been fully heard on an issue and "there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue," the court may grant judgment as a matter of law as to that issue or claim. If the Court does not grant the motion, Rule 50(b) permits the movant to renew the motion within ten days after entry of judgment. In a recent case in which an unsuccessful movant appealed the denial of his Rule 50(b) motion, the Seventh Circuit described the appellant's burden as "herculean," adding:

> We reverse only if no rational jury could have found for the plaintiff, even when viewing the evidence in the light most favorable to the nonmovant.... Careful to avoid substituting our judgment for that of the factfinder at trial, we ascertain whether there exists sufficient evidence upon which any rational jury could reach the trial verdict.... Moreover, we apply this standard stringently in discrimination cases, where witness credibility is typically crucial.

*Gile v. United Airlines, Inc.,–F.3d–, 213 F.3d 365, 2000 WL 656348,*5 (7th Cir. May 22, 2000).*

Just two months earlier, the Court of Appeals noted the narrow scope of the inquiry posed by a renewed Rule 50 motion:

> Using the same standard as that applied by the district court, *Willis v. Marion County Auditor's Office,* 118 F.3d 542, 545 (7th Cir.1997), we limit our inquiry to "whether the evidence presented, combined with all reasonable inferences permissibly drawn therefrom, is sufficient to support the verdict when viewed in the light most favorable to the party against whom the motion is directed.... In other words, we are limited to assessing whether no rational jury could have

found for the plaintiff.

*Mathur v. Board of Trustees of Southern Illinois University, 207 F.3d 938, 941 (7th Cir.2000). Accord Reeves v. Sanderson Plumbing Products, Inc.,–U.S.–, 530 U.S. 133, 120 S.Ct. 2097, 147 L.Ed.2d 105, 2000 WL 743663,*10–11 (June 12, 2000).* Bearing those standards in mind, the Court reviews Wal–Mart's motion for judgment as a matter of law.

First, the parties dispute whether Wal–Mart properly made a Rule 50 motion as to the retaliation claim during trial. There is no question that on the third day of trial, at the close of the EEOC's evidence, Wal–Mart moved for judgment as a matter of law as to the *sexual harassment* claim. A written motion was filed by Wal–Mart on March 20, 2000 (Doc. 50), orally argued outside the presence of the jury, and denied by the Court. On March 22, 2000, at the close of all the evidence in the case, Wal–Mart orally renewed its "Rule 50 judgment as a matter of law motion and brief filed at the close of plaintiff's proof." Wal–Mart's counsel specified that he was renewing "the same argument without ... saying anything beyond what we said earlier." The Court denied that motion. Wal–Mart did not seek judgment as a matter of law on the retaliation claim.

***7** The fact that Wal–Mart never moved *during trial* for judgment as a matter of law on the retaliation claim lends support to the EEOC's argument that Wal–Mart waived its right to "renew" the motion after trial via Rule 50(b). Wal–Mart responds that a Rule 50 motion during trial only would be necessary if Wal–Mart were now contesting the sufficiency of the evidence underlying the punitive damage award. By contrast, Wal–Mart argues, it "is merely raising legal and excessiveness challenges to that award" (Doc. 71, p. 2). Assuming that Wal–Mart's failure to make a Rule 50(a) motion on the retaliation claim does not preclude Wal–Mart's Rule 50(b) motion challenging the punitive damages awarded on that claim, the motion merits denial.

Clearly, Title VII–as amended by the Civil Rights Act of 1991–authorizes the recovery of punitive damages in employment discrimination cases. Punitive damages "require more than ... 'intentional unlawful discrimination.'" *Emmel v. Coca–Cola Bottling Co. of Chicago, 95 F.3d 627, 636–37 (7th Cir.1996).* To recover punitives, the plaintiff-employee must prove that the defendant-employer "engaged in a discriminatory practice ... with malice or with reckless indifference to the federally protected rights of an aggrieved individual." *42 U.S.C. § 1981a(b)(1).* Here, the jury determined that Wal–Mart had engaged in a discriminatory practice (retaliation) with malice or reckless indifference to Tammy Williams' federally protected rights.

Wal–Mart does not directly attack the sufficiency of the evidence on the retaliation claim (*i.e.,* Wal–Mart does not assert that the record contains inadequate evidence or malice or reckless indifference). Rather, Wal–Mart maintains that the jury's award of only equitable, not compensatory, damages precludes the recovery of punitive damages. Stated another way, Wal–Mart argues that since the jury "failed to award a single penny in compensatory damages," there is no foundation for the award of $100,000 in punitive damages, and the Court must vacate the punitive damage award. The Court is not persuaded.

It is true that the $7,000 in back-pay awarded by the jury is properly characterized as equitable relief, not compensatory damages. The Civil Rights Act of 1991, which amended Title VII and permitted the recovery of compensatory and punitive damages, expressly states: "Compensatory damages awarded under this section shall not include backpay...." *42 U.S.C. § 1981a(b)(2).* In *Hennessy v. Penril Datacomm Networks, Inc., 69 F.3d 1344, 1352 (7th Cir.1995),* the Seventh Circuit explained:

> [U]nlike compensatory damages at common law, compensatory damages under § 1981a are defined to omit ... back pay. The 1991 Act allows compensatory damages in addition to those already provided by the Civil Rights Act of 1964. Back pay is excluded from compensatory damages under S 102 of the 1991 Act "to prevent double recovery."

So, the $7000 back-pay award does not constitute compensatory damages. But the fact that there are no compensatory damages does not mean that the jury could not award punitive damages.

***8** The Seventh Circuit soundly rejected that argument in Hennessy. In Hennessy, the employee alleged sex and pregnancy discrimination. The jury found liability under Title VII but awarded only punitive (not compensatory) damages. The district court awarded back-pay and ordered reinstatement. The employer challenged the punitive damage award as not supported by any award of compensatory damages. The Seventh Circuit declared: "Nothing in the plain language of § 1981a conditions an award of punitive damages on an underlying award of compensatory damages." *Id., 69 F.3d at 1352.* The Court concluded that the jury's "consideration of the issue of punitive damages was appropriate, even though it did not award compensatory damages." *Id.*

Wal–Mart reasons that in Hennessy, "the court found that a back pay award was sufficient to sustain a punitive damage

award under Title VII" (Doc. 65, p. 4). This simply is not true. The Hennessy holding was not conditioned on the subsequent award of back-pay. The Seventh Circuit removed all doubt on this point in *Shea v. Galaxie Lumber & Constr. Co., Ltd., 152 F.3d 729, 735 (7th Cir.1998)(emph.added):*

> The holding in *Hennessy* was not dependent on the district judge's later decision to award equitable relief (in the form of back pay) to the plaintiff there. It was instead an interpretation of the kinds of relief available under § 1981a and how they are related to one another. Under that statute, a jury is entitled to award punitive damages even if it thinks compensatory damages are not justified on the record. The jury's award of punitive damages is not a contingent one, to be implemented if and only if the district court later decides to award back pay.

Therefore, this Court rejects Wal–Mart's argument that the punitive damage award must be vacated, because the jury awarded "zero" in compensatory damages.

Finally, Wal–Mart seeks a remittitur of the $100,000 punitive damage award. The Court does not believe remittitur is warranted. The mere fact that no compensatory relief was awarded does not, as Wal–Mart complains, raise "serious doubts as to the propriety of any punitive damage award" (Doc. 65, p. 7). In *Timm v. Progressive Steel Treating, Inc., 137 F.3d 1009, 1009–1010 (7th Cir.1998),* the Seventh Circuit cautioned that a trial judge "cannot treat one verdict (here, the lack of a compensatory award) as the jury's 'true' disposition to which the other verdict must be conformed; one could as readily say that the award of punitive damages requires a compensatory award too." The Court elaborated, "punitive damages are not inconsistent with the lack of compensatory damages." *Timm, 137 F.3d at 1010.*

Nor does the Court buy Wal–Mart's arguments that the $100,000 awarded by the jury constitutes a "windfall to the prevailing party," *see Ramsey v. American Air Filter Co., Inc., 772 F.2d 1303, 1314 (7th Cir.1985),* or is so disproportionate that it violates due process (Doc. 65, p. 9). The jury's punitive damage award is not shocking or monstrously excessive, *see, e.g., McNabola v. Chicago Transit Auth., 10 F.3d 501, 516 (7th Cir.1993),* and the evidence, viewed favorably in support of the verdict, supports that award, *see Slane, 164 F.3d at 1068.*

III. Conclusion

***9** The Court GRANTS in part and DENIES in part the EEOC's April 6, 2000 "Motion to Modify Judgment" (Doc. 63). The motion is *granted* only in that the Clerk of Court shall enter an Amended Judgment which:

- awards $2,905.25 in costs to the EEOC (taxable against Wal–Mart), thereby reducing the amount of costs taxed by the Clerk; and

- adds the three items of affirmative relief outlined in Section II–B: (a) Wal–Mart must provide the EEOC with written notification of the discharge of any employee from Wal–Mart's Glen Carbon, Illinois store for a two-year period following this Order, (b) Wal–Mart must post a notice advising employees of the result of this court case and reminding them of their rights under federal employment laws, and (c) Wal–Mart must place a memo in Williams' personnel file (explaining that Williams prevailed in her retaliation claim against Wal–Mart) and provide that memo to anyone properly requesting Williams' employment records from Wal–Mart.

The motion is *denied* in all other aspects.

The Court DENIES Wal–Mart's April 7, 2000 motion for judgment as a matter of law (Doc. 65–1) and alternative motion for remittitur (Doc. 65–2).

IT IS SO ORDERED.

Parallel Citations

83 Fair Empl.Prac.Cas. (BNA) 833, 80 Empl. Prac. Dec. P 40,566

Footnotes

1 The jury awarded no damages for pain and suffering on the retaliation claim. As for the $7,000 back-pay award, the parties stipulated to that amount in the event that the jury found Wal–Mart liable on either the harassment or the retaliation claim.

2 The Court of Appeals has expressed concern over orders that "insufficiently detail the court's reasons for denying costs." *McIlveen v. Stone Container Corp., 910 F.2d 1581, 1582 (7th Cir.1990).* So, a trial court refusing to award costs to a prevailing party "should state its reason for such disallowance." *Gardner v. Southern Railway Systems., 675 F.2d 949, 954 (7th Cir.1982).*