

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

~~FILED OCT 26 '01 PM 3:35 USDCALB~~

EQUAL EMPLOYMENT OPPORTUNITY \*  
COMMISSION, and DINAH CHARLENE \*  
DAUGHERTY, \*

Plaintiffs, \*

vs. \*

WAL-MART STORES, INC., \*

Defendants, \*

CASE NO. CV-2001-0522-MJ-M

U.S. DISTRICT COURT  
SOU. DIST. ALA.  
FILED IN CLERK'S OFFICE

JAN 7 2002

CHARLES R. DIARD, JR.  
CLERK

**COMPLAINT**

**Jurisdiction and Venue**

1. Plaintiff Dinah Charlene Daugherty ("Ms. Daugherty") brings this action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e, et seq. as amended by the Civil Rights Act of 1991.

2. Subject matter jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sec. 1331 and 1343, 42 U.S.C. Sec. 2000e, et seq.

3. This action is brought within the State where the unlawful employment practice was committed, making venue proper under 42 U.S.C. Section 2000e-5(f)(3).

### The Parties

4. Plaintiff, Ms. Daugherty, is a female citizen of the United States and of the State of Alabama. She is a resident of Mobile, Alabama, (Mobile County) which makes her a resident of this District and Division.

5. Plaintiff Equal Employment Opportunity Commission ("EEOC") brought suit on July 19, 2001 on behalf of Ms. Daugherty and other similarly-situated female Wal-Mart employees.

6. Defendant Wal-Mart Stores, Inc. ("Wal-Mart"), is an employer within the meaning of Title VII of the 1964 Civil Rights Act and, the 1991 amendments thereto.

### Statement of Facts

6. Wal-Mart is located and doing business within this District and Division.

7. Ms. Daugherty was an employee of Wal-Mart within the meaning of Title VII of the 1964 Civil Rights Act and the 1991 amendments thereto, up until her constructive discharge in April of 1998.

8. Prior to her constructive discharge from Wal-Mart, Ms. Daugherty was employed as a retail sales representative at Wal-Mart Store No. 866 in Mobile, Alabama (Mobile County). She began work for Wal-Mart on September 13, 1997.

9. From January 1998 through the date of her constructive discharge, Wal-Mart engaged in unlawful employment practices against Ms. Daugherty at its Mobile, Alabama, store No. 866, in violation of Sec. 703(a)(1) of Title VII, 42 U.S.C. Sec. 2000e *et seq.* Wal-Mart through its agents subjected Ms. Daugherty to a

sexually hostile and intimidating work environment.

10. The hostile work environment to which Ms. Daugherty was subjected included sexually explicit and implicit language and conduct that was so severe and pervasive as to adversely affect the terms and conditions of the employment of Ms. Daugherty.

11. Ms. Daugherty acted reasonably and she continuously complained to Wal-Mart of the sexually hostile and intimidating work environment. However, Wal-Mart did not act reasonably to stop and/or prevent the harassment.

12. Furthermore, Wal-Mart maintained a sexually hostile and intimidating work environment that was so unpleasant or difficult in which to work that a reasonable person in Ms. Daugherty's position would feel compelled to resign, resulting in the constructive discharge of Ms. Daugherty because of her gender in violation of Sec. 703(a) of Title VII.

13. The effect of the practices complained of above has been to deprive Ms. Daugherty of equal employment opportunities and otherwise adversely her status as an employee on the basis of her gender and on the basis of retaliation.

14. The unlawful practices complained of were intentional.

15. The unlawful practices complained of were done with malice and/or reckless indifference to the federally protected rights of Ms. Daugherty.

## CLAIM I

### Title VII - Sexual Harassment

16. Ms. Daugherty realleges and incorporates herein by reference all paragraphs above.

17. Ms. Daugherty was subjected to sexual harassment in violation of Title VII.

18. Ms. Daugherty was subjected to offensive sexual language and touching by a co-employee, Carl Beard, from January to approximately May, 1998.

19. Wal-Mart knew or should have known that Mr. Beard had a history of sexually harassing behavior.

20. Ms. Daugherty told Mr. Beard to stop, and reported the harassment to Wal-Mart supervisory employees on more than one occasion, which said supervisory employees did nothing to attempt stop the harassment, and/or unreasonably delayed in attempting to stop the harassment.

21. In taking the above-described actions, Wal-Mart intentionally retaliated against Ms. Daugherty because she reported the sexual harassment. The actions of Wal-Mart were taken with malice or reckless indifference to the federally protected rights of Ms. Daugherty.

21. As a proximate consequence of Wal-Mart's actions and the violation of Title VII, Ms. Daugherty has lost income and benefits, suffered mental anguish and emotional distress, and suffered other injuries and damages.

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Title VII, Ms. Daugherty has lost income and benefits, suffered mental] anguish and emotional distress, and suffered other injuries and damages.

23. Ms. Daugherty has satisfied all administrative prerequisites to bringing this claim. On or about June 11, 1998, Ms. Daugherty filed a Charge of Discrimination with the EEOC, which was filed within 180 days of the commission of the most recent unlawful employment practice that had occurred at that time. On July 19, 2001, the EEOC filed suit against Wal-Mart on the basis of Ms. Daugherty's Charge of Discrimination against Wal-Mart. A complaint in intervention was timely filed.

WHEREFORE, Ms. Daugherty respectfully requests that this Court grant the following relief:

- A. Grant Ms. Daugherty a declaratory judgment that the practices complained of herein are violative of the provisions of Title VII of the Civil Rights Act of 1964, and the 1991 amendments thereto;
- B. Grant Ms. Daugherty an order enjoining Wal-Mart and all persons acting in concert with Wal-Mart from engaging in discriminatory employment practices on the basis of gender;
- C. Grant Ms. Daugherty an appropriate amount of back pay and other damages which she was discriminatorily denied;
- D. Grant Ms. Daugherty an award of compensatory damages,

including but not limited to an award for mental anguish and emotional distress, as well as punitive damages;

- E. Award Ms. Daugherty her costs and expenses, including an award of reasonable attorney's fees; and,
- F. Award such other relief as may be appropriate.

## CLAIM II

### Title VII - Retaliation

24. Ms. Daugherty realleges and incorporates herein by reference all paragraphs above.

25. Ms. Daugherty has been intentionally retaliated against in violation of Title VII based on the following:

- A. Ms. Daugherty reported the sexual harassment against her to supervisory Wal-Mart employees on more than one occasion
- B. Said supervisory Wal-Mart employees did nothing or delayed in attempting to stop the sexual harassment.
- C. After reporting the sexual harassment, Wal-Mart supervisory employees engaged in acts of retaliation against Ms. Daugherty which included, but were not limited to, discriminating against her with regard to the terms of her employment, to wit, assignment working areas, hours, and dates.

26. In taking the above-described actions, Wal-Mart intentionally retaliated against Ms. Daugherty because she reported the above-mentioned sexual

harassment. The actions of Wal-Mart were taken with malice or reckless indifference to the federally protected rights of Ms. Daugherty.

WHEREFORE, Ms. Daugherty respectfully requests that this Court grant the following relief:

- A. Grant Ms. Daugherty a declaratory judgment that the practices complained of herein are violative of the provisions of Title VII of the Civil Rights Act of 1964, and the 1991 amendments thereto;
- B. Grant Ms. Daugherty an order enjoining Wal-Mart and all persons acting in concert with Wal-Mart from engaging in discriminatory employment practices on the basis of gender;
- C. Grant Ms. Daugherty an appropriate amount of back pay and other damages which she was discriminatorily denied;
- D. Grant Ms. Daugherty an award of compensatory damages, including but not limited to an award for mental anguish and emotional distress, as well as punitive damages;
- E. Award Ms. Daugherty her costs and expenses, including an award of reasonable attorney's fees; and,
- F. Award such other relief as may be appropriate.

**PLAINTIFF DEMANDS TRIAL BY STRUCK JURY ON ALL CLAIMS SO TRIABLE**

Respectfully submitted,



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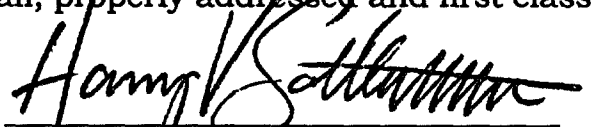
**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this the 26<sup>TH</sup> day of OCTOBER, 2001 served a copy of the foregoing pleading on:

Charles E. Guerrier  
Jill Lolley Vincent  
Valarie Hicks Powe  
Eunice Morrow  
Equal Employment Opportunity Commission  
1130 22<sup>nd</sup> Street South, Suite 2000  
Birmingham, AL 35205-2881

Jeffery Carr  
Robby Steel  
Carr, Allison, Pugh, Howard, Oliver and Sisson, P.C.  
P.O. Box 1126  
Daphne, AL 36526

by depositing same in the United States mail, properly addressed and first class postage prepaid.



HARRY V. SATTERWHITE