

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HEARTWAY CORPORATION d/b/a YORK
MANOR NURSING CENTER,

Defendant.

Case No. CIV-03-534-RAW

ORDER & FINAL JUDGMENT

Before the Court is Plaintiff's Motion for Final Judgment [Docket No. 127] and Renewal of Motion for Final Judgment [Docket No. 129]. On October 19, 2004, pursuant to Rule 58 of the Federal Rules of Civil Procedure, this Court entered Judgment in favor of Plaintiff and against Defendant in the amounts of \$20,000.00 in compensatory damages and \$1,240.00 in back pay. Plaintiff appealed, and the Tenth Circuit reversed the grant of judgment as a matter of law as to punitive damages and remanded for a new trial on that issue. On January 30, 2007, the Court granted Plaintiff's voluntary dismissal of its punitive damages claim. Defendant filed its notice of filing bankruptcy on April 4, 2007.

For the reasons set forth in Plaintiff's well-written renewal of motion for final judgment, this Court agrees that this action is not subject to the automatic stay of Section 11 U.S.C. § 362(a) because the Plaintiff's claim is exempt from the automatic stay provision pursuant to section 362(b)(4). See EEOC v. McLean Trucking Co., 834 F.2d 398, 402 (4th Cir. 1987) (holding that the


EEOC's action was "exempt from the automatic stay until its prayer for monetary relief is reduced to judgment.").

Accordingly, as this case is not subject to an automatic stay and Plaintiff has dismissed its final claim, this Court GRANTS Plaintiff's motion for final judgment [Docket Nos. 127 and 129]. Plaintiff requests Final Judgment be entered in the amount of \$21,240.00. Judgment was previously entered in this amount on October 19, 2004. The Judgment need not be amended, and thus need not be separately re-entered. Final Judgment is hereby entered in accordance with the Judgment previously entered in this case on October 19, 2004.

IT IS SO ORDERED this 18th day of July, 2007.

Dated this 18th Day of July 2007.

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Ronald A. White
United States District Judge
Eastern District of Oklahoma