

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

**MAY 10 2000**

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EQUAL EMPLOYMENT OPPORTUNITY \* CIV 98-4195  
COMMISSION (EEOC) \*

Plaintiff, \*  
\* JUDGMENT

and \*  
ELIZABETH FAWKES, \*

Intervenor Plaintiff, \*

-vs- \*

G & N ENTERPRISES, INC, \*  
(d/b/a Western Way Work Warehouse), \*

Defendant. \*

\*\*\*\*\*

In accordance with the Verdict of the jury rendered on May 5, 2000,

IT IS ORDERED, ADJUDGED and DECREED:

(1) that Judgment is entered in favor of plaintiff EEOC and intervenor-plaintiff Elizabeth Fawkes and against defendant G&N Enterprises, Inc. on plaintiffs' Title VII sexual harassment claim as stated in count one of the EEOC's complaint and in counts one and two of Ms. Fawkes' complaint;

(2) that Judgment is entered in favor of plaintiff EEOC and intervenor-plaintiff Elizabeth Fawkes and against defendant G&N Enterprises, Inc. on plaintiffs' Title VII retaliation claim, as stated in count two of the EEOC's complaint and in count three of Ms. Fawkes' complaint;

(3) that intervenor-plaintiff Elizabeth Fawkes is awarded lost wages of \$5,202, actual damages of \$25,000 and punitive damages of \$75,000 on the sexual harassment and retaliation claims, with the punitive damages being subject to the limitations of 42 U.S.C. § 1981a(b)(3), thus being reduced to \$50,000 as the defendant had more than 14 and fewer than 101 employees;

(4) that Judgment is entered in favor of plaintiff-intervenor Elizabeth Fawkes and against defendant G&N Enterprises, Inc. on plaintiff's state-law claim of intentional infliction of emotional distress, as stated in count six of her complaint;

(5) that Judgment is entered in favor of plaintiff-intervenor Elizabeth Fawkes and against defendant G&N Enterprises, Inc. on plaintiff's state-law battery claim as stated in count seven of her complaint;


(6) that plaintiff-intervenor Elizabeth Fawkes is awarded actual damages of \$25,000 and punitive damages of \$75,000 on the intentional infliction of emotional distress and battery claims;

(7) that plaintiff-intervenor Elizabeth Fawkes is awarded prejudgment interest in the amount of \$1,309 on her claim for lost wages because the backpay recovery would not be complete and Ms. Fawkes would not be made whole without prejudgment interest. In addition, the liability and the amount of damages concerning backpay were fairly certain, and at the time of the discriminatory acts the backpay recovery was reasonably capable of being ascertained. Behlar v. Smith, 719 F.2d 950, 954 (8<sup>th</sup> Cir. 1983). The prejudgment interest was calculated at ten percent (10%) of \$5,202, as set forth in SDCL 21-1-13.1 and 54-3-16 (Category B), beginning on January 1, 1998 through May 5, 2000, this being a fair and equitable rate of interest. EEOC v. Rath Packing Co., 787 F.2d 318, 334 n.14 (8<sup>th</sup> Cir. 1986);

(8) that plaintiff intervenor Elizabeth Fawkes is entitled to postjudgment interest pursuant to 28 U.S.C. § 1961, until the Judgment is paid in full.

Dated this 10<sup>th</sup> day of May, 2000.

BY-THE COURT:

  
Lawrence L. Piersol  
Chief Judge

ATTEST:  
JOSEPH HAAS, CLERK

BY:   
(SEAL) ) DEPUTY