

## ***Ontario Court of Appeal Awards \$400,000 Against Wal-Mart Canada in Bullying Claim***

In 2012, we told you about the landmark Ontario Superior Court case of [\*Boucher v. Wal-Mart Canada Corp.\*](#), where approximately \$1.4 million dollars was ordered against Wal-Mart and one of its former managers.

By way of reminder, the plaintiff in the case, Meredith Boucher, had been an assistant manager at Wal-Mart for over ten years. During the last stretch of her tenure with the company, Ms. Boucher was subject to six months of belittling and demeaning treatment by her manager. The manager's harassing behaviour included calling Ms. Boucher an "idiot" and forcing her to complete embarrassing and demeaning tasks, all in front of her coworkers. There was evidence that this abusive conduct was reported to senior management at Wal-Mart on several occasions and no steps were taken to address it.

Ms. Boucher eventually resigned and subsequently alleged constructive dismissal, claiming that she had been bullied, sexually harassed, discriminated against and assaulted. While she did not succeed in all of her claims, the court awarded her \$200,000 in aggravated damages related to the manner in which she was dismissed and \$1 million in punitive damages for a total of \$1.2 million. The court also awarded \$250,000 against the store manager personally, consisting of \$100,000 for the intentional infliction of mental suffering and \$150,000 in punitive damages. These damages were all in addition to the award of 20 weeks' salary for termination pay as specified in her employment contract.

The award in *Boucher* was the largest of its kind in Canada. However (and perhaps unsurprisingly) the Ontario Court of Appeal recently reduced the awards. On appeal, the punitive damages award against the manager was reduced from \$150,000 to \$10,000 (for a total of \$110,000), and the punitive damages award against Wal-Mart was reduced from \$1,000,000 to \$100,000 for a total damage award against Wal-Mart of \$300,000 in relation to the manner in which she was dismissed.

In its decision, the Court of Appeal noted that the reduced amounts were sufficient to punish the defendants and deter their conduct, and that the higher awards were not rationally required.

Even with the decrease in the awards, the *Boucher* case remains a cautionary tale for employers. Courts will take a strong stance against workplace bullying, and employer's failure to intervene in known cases of inappropriate managerial conduct can result in hefty monetary and reputational damage.

We urge our clients to take a closer look at their bullying and anti-harassment policies and any ongoing workplace disputes. Please contact e2r Solutions® should you need any assistance in this regard

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