

03-815-CD  
WAYNE REED vs. WAL-MART STORES, INC.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

WAYNE REED, ) CIVIL DIVISION  
Plaintiff. )  
vs. ) NO. 03-815-CJ  
WAL-MART STORES, INC., ) COMPLAINT IN CIVIL ACTION  
Defendant. ) Code:

Filed on behalf of:  
Plaintiff.

Counsel of record for  
this party:

Gary M. Davis, Esquire  
PA I.D. #26363

1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219

(412) 394-9000

JUN 05 2003

William A. Shaw  
Prothonotary

**FILED**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

WAYNE REED, )  
 ) NO.  
 )  
 Plaintiff. )  
 )  
 vs. )  
 )  
 WAL-MART STORES, INC., )  
 )  
 Defendant. )

**NOTICE TO DEFEND**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

**Denning Gearhart, Esquire  
215 E. Locust Street  
Clearfield, PA 16830  
Telephone: (814) 765-1581**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

WAYNE REED, )  
Plaintiff. ) NO.  
vs. )  
WAL-MART STORES, INC., )  
Defendant. )

**COMPLAINT IN CIVIL ACTION**

The plaintiff, Wayne Reed, by his attorney, Gary M. Davis, files this complaint in civil action averring the following:

1. The plaintiff, Wayne Reed, is an individual person who resides at RR #1, Box 301, Brockway, PA 15824.
2. The defendant, Wal-Mart Stores, Inc., is a corporation which is incorporated in a state other than Pennsylvania with a warehouse facility located at 100 Wal-Mart Drive, Woodland, Clearfield County, Pennsylvania.
3. At all times material to this action, defendant acted by and through its agents, servants, and employees.
4. Plaintiff was employed on an at-will basis as an order filler at defendant's warehouse facility in Woodland, Pennsylvania from November 2001 till September 2002.
5. As an order filler, plaintiff's job was to fill orders placed by various stores by moving freight onto a conveyor belt.

6. On September 7, 2002, plaintiff was injured while at his job with defendant when he fell and injured his back while moving a palette.
7. Plaintiff immediately reported his injury to his supervisor, Brenda Maines.
8. Plaintiff did not seek medical help on September 7, 2002.
9. Plaintiff called off work on September 8, 2002 because he was still sore from his injury.
10. Plaintiff was still sore on September 9, 2002. When he spoke to Brenda Maines on that day she gave him a "lack of work" status.
11. Plaintiff had regularly scheduled off-days on September 10, 11, 12 and 13, 2002.
12. Plaintiff returned to work on September 14, 2002 but as the day progressed his back got progressively worse.
13. Because his back was causing him great pain, he told Brenda Maines during his work day that he needed to go to the hospital.
14. Both Brenda Maines and Harry Williams, her supervisor, tried to dissuade plaintiff from going to the hospital. They told plaintiff that they would give him another "lack of work" for the day instead if he would not go to the hospital.
15. Defendant had an incentive program in effect in September 2002 that rewarded employees at warehouses with a low rate of reported injuries.
16. Brenda Maines, Harry Williams and the loss prevention supervisor told plaintiff that if he went to the hospital, it would hurt their chances of getting incentive pay for having a low incidence of worker injury and/or workers compensation claims.

17. On September 14, 2002, plaintiff sought treatment at Clearfield Hospital where he was diagnosed with back spasms, given medication and instructed not to work for five days.

18. On September 19, 2002, plaintiff saw Dr. Fugate, who was on defendant's approved workers compensation doctor list. Dr. Fugate released him to return to work on light duty.

19. Plaintiff worked on light duty on September 21 through September 23, 2002.

20. On September 23, 2002, he was terminated from his position.

21. Plaintiff was told by Andy Bouch, Brenda Maines and Harry Williams that he was fired for inappropriate language and conduct at the hospital. He was told that the language in question was a comment that he made to Andy Bouch that it was "bullshit" that he was pressured not to go to the hospital.

22. Plaintiff believes and therefore avers that he was discharged for seeking medical care at a hospital for a work injury and pursuing his workers compensation claim.

23. At the time of his injury plaintiff was paid \$14.75 per hour and typically worked thirty-six hours per week.

#### **COUNT I- WRONGFUL DISCHARGE**

24. The averments of paragraphs one through twenty-three are incorporated herein as if fully set forth.

25. Termination of an at-will employee in retaliation for filing a workers' compensation claim violates Pennsylvania's public policy as established by the Pennsylvania Workers Compensation Act.

26. Termination of an at-will employee in retaliation for seeking appropriate and necessary medical treatment when suffering a work-related injury violates Pennsylvania's public policy as established by the Pennsylvania Workers Compensation Act.

27. Termination of an at-will employee for expressing his opposition, disapproval and anger at defendant's attempts to dissuade him from exercising his rights to seek medical treatment for a work-related injury violates Pennsylvania's public policy as established by the Pennsylvania Workers Compensation Act, Article I section 7 of the Pennsylvania Constitution and the First Amendment to the Constitution of the United States.

28. Defendant terminated plaintiff in retaliation for asserting his rights under Pennsylvania's Workers Compensation Act, for seeking medical care for a work-related injury and for expressing his opposition, disapproval and anger at defendant's attempts to dissuade him from exercising his rights under the Pennsylvania Workers Compensation Act.

29. Defendant's termination was unlawful and wrongful because it violated Pennsylvania public policy as expressed in paragraphs twenty-five, twenty-six and twenty-seen herein.

30. As a direct and proximate result of said unlawful termination, plaintiff has suffered a loss of six months of earnings which he estimates at \$13,800 and he continues to suffer further loss of earnings.

31. As a direct and proximate result of said unlawful termination, plaintiff has suffered inconvenience, anguish, humiliation, stress and loss of enjoyment of life.

32. The actions of the defendant in terminating plaintiff were done with malicious intent.

WHEREFORE plaintiff requests this Honorable Court to award him compensatory damages in excess of \$25,000 and to also award him punitive damages and costs.

Respectfully Submitted,

By   
Gary M. Davis, Esquire  
PA I.D. No. 26363

1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

## **VERIFICATION**

I, Wayne Reed, have read the foregoing Complaint In Civil Action and verify that the statements therein are true and correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

4-8-03  
Date

Wayne C Reed  
Wayne Reed

FILED

Atty Davis

Pd. 85.00

10:37 AM  
JUN 05 2003

2cc Atty Davis

ICC Shff

William A. Shaw  
Prothonotary

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

REED, WAYNE

VS.

WAL-MART STORES, INC.

**COMPLAINT**

Sheriff Docket # 14154

03-815-CD

**SHERIFF RETURNS**

NOW JUNE 6, 2003 AT 1:51 PM SERVED THE WITHIN COMPLAINT ON WAL-MART STORES, INC., DEFENDANT AT EMPLOYMENT, 100 WAL-MART DRIVE, WOODLAND, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KEVIN ROBISON, PERS. MANAGER, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: NEVLING/MCCLEARY

**Return Costs**

Cost	Description
21.60	SHERIFF HAWKINS PAID BY: ATTY CK# 2812
10.00	SURCHARGE PAID BY: ATTY CK# 2813

Sworn to Before Me This

10 Day Of June 2003  
William A. Shaw

So Answers,

*Chester A. Hawkins*  
*My Name is Chester A. Hawkins*  
Chester A. Hawkins  
Sheriff

**FILED**

*1:45 PM*  
JUN 10 2003

William A. Shaw  
Prothonotary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

WAYNE REED, ) CIVIL DIVISION  
                  )  
Plaintiff. )  
                  )  
                  )  
VS. ) NO. 03-815  
                  )  
                  )  
WAL-MART STORES, INC., ) **TEN DAY NOTICE**  
                  )  
                  )  
Defendant. )

Filed on behalf of:

Plaintiff.

Counsel of record for  
this party:

Gary M. Davis, Esquire  
PA I.D. #26363  
1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

**FILED**

JUL 03 2003

William A. Shaw  
Prothonotary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

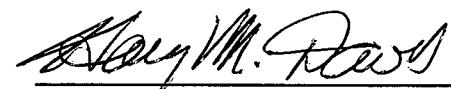
WAYNE REED, )  
Plaintiff. ) NO. 03-815  
vs. )  
WAL-MART STORES, INC., )  
Defendant. )

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE THE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

**Denning Gearhart, Esquire  
215 E. Locust Street  
Clearfield, PA 16830  
Telephone: (814) 765-1581**

**DATED: July 1, 2003**



**Gary M. Davis, Esquire  
PA I.D. # 34894  
1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000**

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and correct copy of the foregoing document upon the following person in the manner below this 15<sup>th</sup> day of July, 2003.

Serviced By: Certified Mail, Return Receipt Requested

Service upon:

Wal-Mart Stores, Inc.,  
100 Wal-Mart Drive  
Woodland, PA 16881

Attorneys For Plaintiff

By   
Gary M. Davis, Esquire  
PA I.D. # 34894

1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

FILED NOCC  
M 10:20-03 EGD  
JUL 03 2003

William A. Shaw  
Prothonotary

WAYNE REED,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

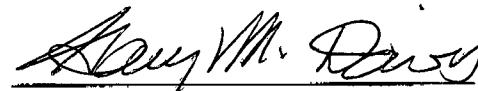
NO. 03-815-CD

**AGREEMENT PURSUANT TO RULE 237.2 TO EXTEND TIME  
TO ANSWER, MOVE OR OTHERWISE RESPOND FOLLOWING TEN-DAY NOTICE**

It is agreed that Defendant is granted an extension of time through August 8, 2003 in which to file an Answer or Preliminary Objections or to otherwise Move or Respond to Plaintiff's Complaint.

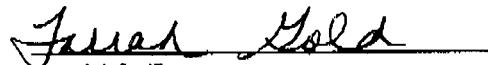
After the above date, a judgment of default may be entered upon praecipe without further notice.

Date: 7/14/03

  
Gary M. Davis  
1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219

Attorney for Plaintiff Wayne Reed

Date: 7/14/03

  
David S. Fryman  
Farrah I. Gold  
Ballard Spahr Andrews & Ingersoll  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103-7599

Attorneys for Defendant  
Wal-Mart Stores Inc.

William A. Shaw  
Preliminary

**FILED**

JUL 21 2003

WAYNE REED,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant,

: IN THE COURT OF COMMON PLEAS  
: CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 03-815-CD

**AGREEMENT PURSUANT TO RULE 237.2 TO EXTEND TIME  
TO ANSWER, MOVE OR OTHERWISE RESPOND FOLLOWING TEN-DAY NOTICE**

It is agreed that Defendant is granted an extension of time through August 8, 2003 in which to file an Answer or Preliminary Objections or to otherwise Move or Respond to Plaintiff's Complaint.

After the above date, a judgment of default may be entered upon praecipe without further notice.

Date: \_\_\_\_\_

Gary M. Davis  
1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219

Attorney for Plaintiff Wayne Reed

Date: 7/14/03

Farrah Gold  
David S. Fryman  
Farrah I. Gold  
Ballard Spahr Andrews & Ingersoll  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103-7599

Attorneys for Defendant  
Wal-Mart Stores Inc.

FILED

no  
cc

7/11/04  
M 10:46 AM  
JUL 21 2003  
SAC

William A. Shaw  
Prothonotary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

WAYNE REED, ) CIVIL DIVISION  
 )  
 Plaintiff. )  
 ) NO. 03-815  
 VS. )  
 )  
 WAL-MART STORES, INC., ) PLAINTIFF'S REPLY TO NEW MATTER  
 )  
 )  
 Defendant. )

Filed on behalf of:

Plaintiff.

Counsel of record for  
this party:

Gary M. Davis, Esquire  
PA I.D. #26363  
1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

**FILED**

AUG 27 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

WAYNE REED, )  
                  )  
                  ) NO. 03-815  
                  )  
Plaintiff.      )  
                  )  
vs.              )  
                  )  
WAL-MART STORES, INC., )  
                  )  
Defendant.      )

**PLAINTIFF'S REPLY TO NEW MATTER**

The plaintiff, Wayne Reed, by his attorney, Gary M. Davis, files this reply to new matter averring the following:

1.     The averments of paragraph one of defendant's new matter state a legal conclusion to which no response is required.
2.     The averments of paragraph two of defendant's new matter which state that Walmart's actions concerning plaintiff were justified and not improper are so vague, as to defy a response. To the extent that a response is possible said averments are specifically denied and strict proof of same is demanded at trial.
3.     The averments of paragraph three of defendant's new matter state a legal conclusion to which no response is required.

4. The averments of paragraph four of defendant's new matter is specifically denied. It is denied that to the extent that plaintiff suffered any damages or loss, such damages and loss were caused in whole in part by his own acts, omissions, or conduct. To the contrary, the damages and losses suffered by plaintiff which are identified in plaintiff's complaint in this action were the result of defendant's acts, omissions and conduct.

5. The averments of paragraph five of defendant's new matter are specifically denied. It is denied that Walmart acted in good faith, reasonably and diligently. To the contrary, defendant, Walmart acted in bad faith and unreasonably in discharging plaintiff because he pursued his rights to seek workers' compensation benefits.

6. The averments of paragraph six of defendant's new matter are specifically denied. It is denied that Walmart terminated plaintiff's employment for legitimate business reasons unrelated to plaintiff's pursuit of medical care for a work injury or pursuit of workers' compensation. To the contrary, as is more specifically averred in plaintiff's complaint, Walmart terminated plaintiff's employment because he sought medical care for a work related injury and pursued his rights to workers' compensation.

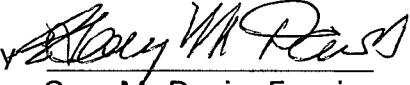
7. The averments of paragraph seven of defendant's new matter state a legal conclusion to which no response is required.

8. The averments of paragraph eight of defendant's new matter state a legal conclusion to which no response is required.

9. The averments of paragraph of nine of defendant's new matter are specifically denied. It is denied that plaintiff has failed to mitigate his damages. To the contrary, plaintiff has made reasonable efforts to mitigate his damages. The averment that plaintiff was not entitled to compensatory or punitive damages states a legal conclusion to which no response is required.

10. The averment of paragraph ten of defendant's new matter are specifically denied. To the contrary, plaintiff did experience emotional distress as a result of Walmart's conduct in discharging him from employment.

**WHEREFORE** plaintiff, Wayne Reed, requests this Honorable Court to award him the relief that has been requested by him in his complaint in this action.

By   
Gary M. Davis, Esquire  
PA I.D. # 34894

1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

## VERIFICATION

I, Wayne Reed, have read the foregoing Plaintiff's Reply to New M atter and verify that the statements therein are true and correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

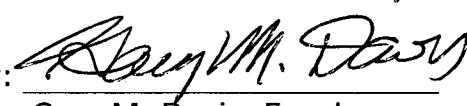
8-22-03  
Date

Wayne Reed  
Wayne Reed

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE  
**PLAINTIFF'S REPLY TO NEW MATTER** WAS SERVED VIA FIRST CLASS MAIL  
PREPAID, THIS 25<sup>th</sup> DAY OF August, 2003 UPON THE FOLLOWING:

Farrah I. Gold, Esquire  
Ballard, Spahr, Andrews & Ingersoll, LLP  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103-7599

By:   
Gary M. Davis, Esquire  
Counsel for Plaintiff

Date: 10/22/2003

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 10:12 AM

**ROA Report**

Page 1 of 1

**Case: 2003-00815-CD**

Current Judge: No Judge

Wayne Reed vs. Wal-Mart Stores, Inc.

Civil Other

Date	Judge
06/05/2003	Filing: Civil Complaint Paid by: Gary M. Davis, Esq. Receipt number: 1861159 Dated: 06/05/2003 Amount: \$85.00 (Check) No Judge
06/10/2003	Sheriff Returns: Now June 6, 2003 served complaint on Wal-Mart, Woodland. Shff. Hawkins \$21.60, Surcharge \$10.00 paid by Atty. No Judge
07/03/2003	TEN DAY NOTICE. filed by s/Gary M. Davis, Esquire Certificate of Service no cc No Judge
07/21/2003	Agreement Pursuant To Rule 237.2 To Extend Time To Answer, Move or Otherwise Respond Following Ten-Day Notice. s/Gary M. Davis, Esquire s/Farrah I. Gold, Esquire no cc No Judge
08/08/2003	Answer And New Matter Of Defendant Wal-Mart Stores, Inc. filed by s/Farrah I. Gold, Esquire Verification s/Harry Williams Certificate of Service no cc No Judge
08/27/2003	Plaintiff's Reply To New Matter. filed by s/Gary M. Davis, Esquire Verification s/Wayne Reed Certificate Of Service no cc No Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

WAYNE REED, ) CIVIL DIVISION  
Plaintiff. )  
vs. ) NO. 03-815  
WAL-MART STORES, INC., ) PRAECIPE TO DISCONTINUE  
Defendant. ) PURSUANT TO RULES OF  
 ) CIVIL PROCEDURE 229

Filed on behalf of:

Plaintiff.

Counsel of record for  
this party:

Gary M. Davis, Esquire  
PA I.D. #26363  
1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

FILED

JUL 19 2004

William A. Shaw  
Prothonotary/Clerk of Courts

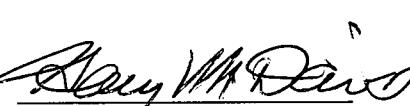
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

WAYNE REED, )  
vs. ) NO. 03-815  
Plaintiff. )  
Wal-Mart Stores, Inc., )  
Defendant. )

PRAECIPE TO DISCONTINUE PURSUANT TO RULES OF CIVIL PROCEDURE 229

TO: Prothonotary of Clearfield County

Please discontinue the above-captioned action.

By   
Gary M. Davis, Esquire  
PA I.D. # 34894

1700 Lawyers Building  
428 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 394-9000

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the PRAECIPE TO  
DISCONTINUE PURSUANT TO RULES OF CIVIL PROCEDURE 229 was served via  
first class mail prepaid, this 16<sup>th</sup> day of July, 2004 upon the following:

Farrah I. Gold, Esquire  
Ballard, Spahr, Andrews & Ingersoll, LLP  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103-7599

By:   
Gary M. Davis, Esquire  
Counsel for Plaintiff

**FILED** No cc

111.0001  
JUL 19 2004 2 Cert. of Disc.  
SAC William A. Shaw to Atty. Davis  
Prothonotary/Clerk of Court  
copy to CJA

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Wayne Reed

Vs.  
Wal-Mart Stores, Inc.

No. 2003-00815-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on July 19, 2004, marked:

Discontinued

Record costs in the sum of \$85.00 have been paid in full by Gary M. Davis, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 19th day of July A.D. 2004.

---

William A. Shaw, Prothonotary