



Ontario Court awards \$750,000 in moral and punitive damages to former Wal-Mart employee

Gail Galea commenced her employment with Wal-Mart Canada in August 2002 as District Manager-in-Training. Throughout her employment Galea received consistently positive performance reviews and was promoted several times, eventually holding the position of Vice-President, General Merchandise.

In January 2010, Galea attended what she thought was a routine meeting with the President and CEO of Wal-Mart. Instead, during the meeting Galea was advised that she was being removed from her role. While still officially employed by Wal-Mart, Galea was relieved of all her duties and forced to find another role within the company. Her employment was eventually terminated almost 10 months later in November 2010.

Following her termination, Galea sued Wal-Mart for breach of contract, as well as punitive and moral damages for the manner in which the company terminated her employment.

At trial, Justice Emery found that Wal-Mart's conduct in keeping Galea in "suspended animation" for almost 10 months before eventually terminating her employment was misleading, dishonest and unduly insensitive. Justice Emery stated:

Wal-Mart's conduct was misleading at best, and dishonest at worst, in the way the company treated Ms. Galea. Only Wal-Mart knew that Ms. Galea's career was over long before she was actually terminated. The ten months she was left to seek a new foothold qualifies as a manner of dismissal that caused Ms. Galea mental distress...

As a result, Justice Emery awarded Galea \$200,000 in moral damages. Justice Emery also awarded Galea a further \$50,000 for Wal-Mart's conduct during the litigation, which he found caused Galea "prolonged anguish about the case".

In addition to moral damages, Justice Emery also issued an award of punitive damages. Justice Emery concluded that Wal-Mart's conduct when dealing with Galea between January and November 2010 was callous, highhanded, insensitive and reprehensible, warranting an award of \$500,000 in punitive damages.

All of Wal-Mart's conduct that justifies an award of punitive damages occurred between January 29, 2010 and November 19, 2010 when Wal-Mart would make representations to Ms. Galea about her career prospects while making decisions that detracted from, or even defeated that purpose. It is not that Wal-Mart set Ms. Galea up to fail; it is that Wal-Mart built her up, only to let her down that much more. That corporate behaviour was not just unduly insensitive, it was mean.

This decision is the highest award for moral damages in employment law in Canada and one of highest awards for punitive damages. While this case is likely to be appealed, it nonetheless reinforces the importance of acting in good faith at the time of termination and being honest, truthful, and transparent with employees.

Robinson Heeneey LLP announcements

We are delighted to announce that Sarah Vokey has been named a partner of the firm.

