

Wal-Mart Is Found Liable in Bias Against Disabled Man

By CONSTANCE L. HAYS

A federal jury found yesterday that Wal-Mart Stores had discriminated against a disabled Long Island man who briefly held a job at the company's Centereach, N.Y., store, and ordered the company to pay him \$7.5 million in damages.

The plaintiff, Patrick Brady, 21 years old, has cerebral palsy. He applied for a job in the Wal-Mart pharmacy department in the summer of 2002 and was hired. He said he quit not long after he was reassigned to other responsibilities, including collecting garbage and shopping carts from the parking lot.

The award includes \$5 million in punitive damages, Mr. Brady's lawyer said, which is likely to be reduced to \$600,000 since federal law limits the amount that can be awarded for punitive damages. The jury also awarded Mr. Brady \$2.5 million in compensatory damages, which has no similar limit, said the lawyer, Douglas H. Wigdor. "The jury was giving an award that was meant to send a message to Wal-Mart," he said.

Last night, Mr. Brady said in a statement that he was "very happy the jury believed in me," and added: "I hope that Wal-Mart now understands that they can't get away with treating people with disabilities like second-class citizens."

His lawyer said Mr. Brady had celebrated the verdict and then showed up for his shift at a Stop & Shop in Centereach, where his responsibilities include bagging groceries at the front of the store.

Mr. Brady asserted in a lawsuit that Wal-Mart had discriminated against him because of his disability, violated the Americans with Dis-

TROUBLE FOR WAL-MART IN QUEENS

A developer has dropped plans for a Wal-Mart in Queens, city and real-estate officials said. Page A1.

abilities Act with "a hostile work environment" and other obstacles, and ignored the requirements of a nationwide consent decree it signed as part of a \$6.8 million settlement with the Equal Employment Opportunity Commission in late 2001 that closed more than a dozen similar cases from around the country.

"We appreciate the service of the jurors but disagree with their decision," a Wal-Mart spokeswoman, Christi Gallagher, said in a statement. "We feel very strongly that Mr. Brady did not suffer discrimination in our store." She added that the company plans to appeal, and "we are optimistic that the award will be substantially reduced or eliminated altogether."

Mr. Brady's childhood was one long struggle, with surgery for his eyes and legs after cerebral palsy damaged them. Painful stretches of rehabilitation followed. His mother, Karen Brady, who testified on his behalf during the 10-day trial before Judge James Orenstein of United States District Court for the Eastern District of New York, said in a recent interview that Wal-Mart's decision to reassign her son was baseless.

"He can read and he can match a name," she said. "There was no reason for this. He always worked so hard at everything." In the aftermath of his Wal-Mart experience, she added, he wilted before her eyes, winding up in the care of a psychiatrist for the first time in his life. His feeling was, she said, "Why work so hard at school, and then have them tell me I'm not good enough?"

Mr. Brady's lawsuit named the manager of the Centereach store, James Bowen, and the head pharmacist, Yem Hong Chin, as well as Wal-Mart as defendants. Along with Wal-Mart, Ms. Chin was found liable by the jury.

Wal-Mart has been on a public-relations campaign recently, rebutting critics who say its employment practices hurt women, immigrants and others. Company executives, including the chief executive, H. Lee Scott Jr., have made public state-

A \$7.5 million award to a former employee with cerebral palsy.

ments about the benefits of working at Wal-Mart. Last month, the chain took out full-page ads in scores of newspapers around the country, stating that the jobs and pay it offers are among the best anywhere. Television ads that feature Wal-Mart workers talking about their satisfying careers have been shown since 2003.

At the company's shareholder meeting in June, Wal-Mart executives highlighted an employee with cerebral palsy for his dedication to his job cleaning bathrooms inside the stores.

The commission has another lawsuit pending on behalf of a man with cerebral palsy who was rejected for a job in the company's Richmond, Mo., store. "It's disappointing and unacceptable for an employer as large and sophisticated as Wal-Mart to shun qualified job applicants because they're disabled," Lynn Brun-

er, the agency's district director in St. Louis, said in announcing the lawsuit.

People with disabilities are not supposed to be questioned about them when they apply for jobs, according to New York and federal laws. But Mr. Brady said he was questioned by Wal-Mart managers about his ability to do the job before he was hired. They also questioned him about medications he was taking and asked for his medical history, Mr. Wigdor said. That, too, would violate the law, he said.

In the 2001 consent decree, Wal-Mart agreed to provide sensitivity training to all of its employees and pledged not to use what it called "the matrix," a series of questions about an applicant's capacity to do a job with or without "reasonable accommodation," which is information that would reveal whether or not they were disabled.

In the past, such questions had been used to exclude people who were deaf, diabetic, who used a wheelchair or were otherwise disabled, said Mary Jo O'Neill, a regional lawyer for the commission in Phoenix, who led the legal team that produced the consent decree.

"That was the epidemic," she said. "That was the way disabled people were kept out of the system."

Ms. O'Neill said she had not received reports of widespread lack of follow-through with the requirements of the nationwide consent decree, but noted that Wal-Mart's rapid growth created certain issues for the retailer.

"It's a company that grew too fast, too soon," she said. "It grew really, really fast, and historically they haven't put enough resources into their equal-employment opportunity program." That approach, she added, is "pennywise and pound foolish."