

J. Garcia

2012-CI-14743



150TH JUDICIAL DISTRICT COURT
JULIA GARCIA VS WAL-MART STORES INC ET
DATE FILED: 09/07/2012
NO. _____

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JULIA GARCIA,

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Plaintiff

IN THE DISTRICT COURT

VS.

_____ JUDICIAL DISTRICT

WAL-MART STORES, INC. and/or
WAL-MART STORES TEXAS, LLC,

Defendants

BEXAR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION, DEMAND FOR JURY, REQUEST FOR
DISCLOSURE AND FIRST SET OF INTERROGATORIES

A. Discovery-Control Plan

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3.

B. Parties

2. Plaintiff, JULIA GARCIA, is an individual presently residing in Bexar County, Texas.

3. Defendant, WAL-MART STORES, INC., is a foreign corporation organized and existing under the laws of the State of Delaware, and whose principal office is located at 702 SW 8th Street, Bentonville, Arkansas. This corporation is authorized to do business in Texas and may be served with process by serving its registered agent for service of process, C.T. Corporation System, at 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

4. Defendant, WAL-MART STORES TEXAS, LLC, is a limited liability foreign corporation organized and existing under the laws of the State of Delaware, and whose principal office is located at 702 SW 8th Street, Bentonville, Arkansas. This corporation is authorized to do business in Texas and may be served with process by serving its registered agent for service of process, C.T. Corporation System, at 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

5. Defendants will be hereafter referred to, jointly and severally, as Wal-Mart.

C. Jurisdiction

6. The court has jurisdiction over the lawsuit because the amount in controversy exceeds this court's minimum jurisdictional requirements, but does not include any claim or combination of claims that exceed \$74,900.00, including attorney's fees.

7. The court has jurisdiction over Defendants, nonresident corporations, because

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Defendants purposefully availed themselves of the privileges and benefits of conducting business in Texas by operating a chain of retail stores in Texas, and specifically in Bexar County, Texas. Further, the tort committed by employees of Defendants, jointly and severally, occurred at the Wal-Mart Supercenter store No. 2404, located at 8500 Jones Maltsberger Road, San Antonio, Texas 78216.

D. Venue

8. Venue is proper in Bexar County under Texas Civil Practice & Remedies Code, Section 15.002, because Plaintiff resided in Bexar County when the cause of action accrued, and no other subdivision of Texas Civil Practice & Remedies Code section 15.002(a) applies.

E. Facts

9. On December 18, 2010, at approximately between 1:15 a.m. and 1:30 a.m., Plaintiff, JULIA GARCIA, entered the Wal-Mart Supercenter #2404, located at 8500 Jones Maltsberger Road, San Antonio, Bexar County, Texas, to do Christmas shopping for her children. She had just sold her vehicle and had two \$100 bills and two \$50 bills to purchase Christmas gifts for her children. She selected approximately 15 to 20 items for purchase and, at approximately 2:00 a.m., proceeded to the checkout lane closest to where customers were entering and exiting the store.

As she reached her turn in the checkout lane, the cashier rang up the items, which totaled slightly over \$150. Plaintiff presented the cashier with one \$100 bill, one \$50 bill and change. The cashier inspected the \$100 bill, turned to another cashier and had a brief discussion, and returned to her register telling Plaintiff that her money was "fake." The cashier proceeded to rip the \$100 bill in half without performing any counterfeit detection tests. The metallic strip in the \$100 bill was clearly visible.

After tearing the \$100 bill and loudly telling Plaintiff that her money was counterfeit, the cashier then marked the bill with a counterfeit detection pen, and the color of the pen's mark was a yellowish color. Having worked at retail establishments previously, Plaintiff told the cashier that the yellow mark meant that the money was legitimate and also reminded her to look for the metallic strip imbedded in the bill. The cashier responded that the store was keeping the money. Plaintiff then asked for a manager. The man who responded was a manager named "Russell."

When Russell arrived, the cashier explained what she had done, and Russell stated to Plaintiff that the money was counterfeit, and she had to wait for the police. Plaintiff explained that she had just sold her vehicle to purchase Christmas gifts for her children and received the money from a known acquaintance. At this time, she took out the other \$100 bill she had in her possession. Russell took this bill from her, told her it was also counterfeit, ripped it in half and again told Plaintiff she had to wait for the police.

Russell had Plaintiff move to the front of the lane near an ice machine at the entrance/exit to the store and detained her for approximately two hours for the police to arrive. While at the front of the store, in plain sight of all passing customers, she was accompanied by Russell and intermittently by a female manager. During this time, Russell informed her that the paper was legitimate, but the amount was counterfeit, but he made no effort to actually test the money. Customers continued to pass by, some of whom asked employees what was going on, to which employees responded that Plaintiff was "trying to pass fake money" or words to that effect.

At approximately 4:15 a.m., Officer Edwards of the San Antonio Police Department arrived at the store and spoke with the female manager. The officer proceeded to inspect and perform various tests on the bills that the cashier and manger had misappropriated from Plaintiff. Another police officer then arrived at the store and assisted with inspecting/testing the Plaintiff's bills.

After Officer Edwards and the other officer completed their inspection, Officer Edwards approached Plaintiff and asked where the money had come from. Plaintiff showed Officer Edwards the \$50 bill that had not been misappropriated from her by Wal-Mart staff and explained how she came into receipt of the money. Officer Edwards told her that the money taken by Wal-Mart was legitimate and that the store had made a terrible mistake by their conduct. He then approached the manager, who appeared upset by what he was told by Officer Edwards.

After speaking with Officer Edwards, Manager Russell approached Plaintiff and sarcastically stated that the police officers said the money was not counterfeit, though he disagreed. At this time, he attempted to hand Plaintiff the two torn \$100 bills he had misappropriated from her. When Plaintiff objected to receiving torn bills, Officer Edwards instructed Manager Russell to replace the bills he had wrongfully taken and destroyed.

Plaintiff's humiliating ordeal at Wal-Mart store No. 2404 ended at approximately 5:00 a.m., at which time Officer Edwards offered to escort Plaintiff to her vehicle. On the way to her vehicle, Officer Edwards apologized profusely for what store officials put her through, told her the store had no reasonable basis to believe the bills were counterfeit.

F. False Imprisonment

10. Defendants' agents and employees willfully detained Plaintiff for several hours awaiting the police.

11. Plaintiff did not consent to the detention. She was, in effect, "guarded" and/or "arrested" like a criminal by Defendants' employees in plain sight of all passersby coming in and out of the store.

12. Defendants' agents and employees had no legal authority or justification to detain Plaintiff. The \$100 bills presented to Defendants' employees were legitimate currency and legal tender and should have been accepted by Defendants' employees and not, instead

pronounced to be counterfeit and destroyed prior to a reasonable inspection and authentication, which should not have taken more than a few minutes.

G. Intentional infliction of Emotional Distress

13. Plaintiff's injury resulted from Defendants' employees' egregious conduct due to their intentional, malicious and grossly negligent conduct toward Plaintiff. The manner that Plaintiff was detained against her will for hours by the front door, in full view of other customers on the premises, some of whom were told that Plaintiff was being held for passing counterfeit money, and they intentionally caused Plaintiff great emotional distress. Further, when Defendant's manager was informed that the currency was, indeed, real, instead of apologizing to Plaintiff, he was sarcastic and discourteous to her, and attempted to return the \$100 bills that he and the store cashier had destroyed discourteous to her.

H. Damages

14. Actual Damages. Defendants' employees' wrongful acts caused injury to Plaintiff that resulted in actual damages done to Plaintiff, to-wit: Plaintiff sustained mental or emotional pain and anguish due to the embarrassment and humiliation suffered by Plaintiff while wrongfully imprisoned by Defendant waiting for the police; she also sustained inconvenience and injury to her reputation.

15. Plaintiff seeks actual damages in the amount of the jurisdictional limits of this court, but in no event in excess of \$74,900.00, including exemplary damages and attorney's fees.

16. Exemplary damages. Further, Defendants were grossly negligent, in failing to avail their agents and employees, especially their cashiers and managers, of the proper training to deal properly and congenially with their customers and to properly identify what is real currency from what is not. Such failures on the part of Defendants, jointly and/or severally, entitle Plaintiff to exemplary damages within the total limit of the damages pleaded herein, under Texas Civil Practice & Remedies Code section 41.003(a).

17. Attorney fees and Costs of Court. Plaintiff has been compelled to engage the services of the attorney whose name is subscribed to this pleading for the prosecution of this claim, and has also incurred costs of court in bringing this action. Plaintiff's seeks a reasonable attorney's fee and recovery of all costs of court, all included within, and not to exceed, the total of \$74,900.00 in total damage as pleaded herein.

I. Jury Demand

18. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

J. Conditions Precedent

19. All conditions precedent to plaintiff's claim for relief have been performed or have occurred.

K. Prayer

20. For these reasons, Plaintiff asks that the Court issue citation for Defendants to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Actual damages.
- b. Exemplary damages.
- c. Prejudgment and post-judgment interest.
- d. Court costs.
- e. Attorney fees.
- f. All other relief to which Plaintiff is entitled, none of which, in total, should exceed the maximum amount of the \$74,000.00 in damages leaded herein.

Respectfully submitted,

LAW OFFICES OF JOHN F. YOUNGER, JR.

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By: 

John F. Younger, Jr.

State Bar No. 22225000

ATTORNEY FOR PLAINTIFF,
JULIA GARCIA

C.R.T.
PROCESS DEPT.