Bethany Perry

Human Resource Management

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In July of 1962 Sam Walton opened the very first Wal-mat in Rogers Arkansas. I doubt at the time he knew what he was getting himself into because just ten years later the company was publicly traded and had record sales of 78 million dollars. Then by 2002 it was ranked one of fortune 500’s top companies and had more than 1.1 million associates worldwide. Though Walmart’s rise to the top has been unprecedented it does not come without its drawbacks. The company has had to face many lawsuits, public scrutiny, and backlash from trying to monopolize the market (Walmart.com, 2024).

Two years after Walmart’s opening day the House of Representatives puts the Civil Rights Act of 1964 into place. This act established the Equal Opportunity Employment Commission. The mission of the Equal Opportunity Employment Commission (EEOC) was to eliminate unlawful employment discrimination. They are responsible for multiple steps in the investigative process such as investigating unlawful employment practices and determining if reasonable cause exists to believe the charge is true. If the agency determines there has been a violation of law, they attempt to reach a voluntary settlement through conciliation. In 2020, the EEOC secured a record $535.4 millions dollars for workers who were subject to discrimination. In 2021, the EEOC v Walmart Stores East L.P. completed a four-day trial awarding over $125 million dollars on compensatory and punitive damages for denying a sales associate with Down Syndrome a reasonable accommodation and discharged then refused to rehire her because of her disability. The EEOC says, “The sales associate was hired in 1999 and worked a regular schedule three to four days a week. In November 2014, the retailer’s new computerized scheduling system changed the sales associate’s hours, which disrupted her commuting routine and interfered with her regular mealtime, causing her to get ill. The employer denied her request to return to her former schedule, and after disciplining her for attendance violations, discharged her for excessive absenteeism and refused to rehire her” (EEOC.gov, 2021).

Marlo Spaeth started working at Walmart in 1999 in Manitowoc, Wisconsin. She spent her time folding towels, cleaning aisles, processing returns and greeting customers according to her lawyer. (EEOC.gov, 2021) Even though she had several raises and positive performance reviews she was still let go after a scheduling conflict. In November of 2014, Walmart made the switch to a computerized scheduling system which caused her daily hours to be changed from noon to 4pm to 1:00pm-5:30pm. This was because the computerized scheduler was based on customer traffic and ensured that there was enough staff to cover the estimated number of customers. Marlo, who has a condition called Down syndrome thrives on routine approached her manager asking for her previous schedule back. She had successfully worked that previous schedule for 14 years and desperately wanted to return to it (NYtimes.com, 2021).

Marlo has a lifelong developmental disease called Down Syndrome. People who have Down Syndrome have mild to moderate impairment with delayed language as well as long- and short-term memory effects. People with Down syndrome usually have some degree of developmental disability, but it’s often mild to moderate. Mental and social developmental delays may mean that the person could have any or all the following: impulsive behavior, poor judgment, short attention span, slow learning capabilities. Children with Down syndrome often meet age-related milestones. However, they may learn more slowly than other children. On a positive note, people with Down syndrome are living longer and richer lives now more than ever. Though they can often face a unique set of challenges, they can also overcome those obstacles and thrive (healthlinemedia, 2023). In Marlo’s case she required a rigid daily routine, which meant taking the bus home at a specific time and eating supper at a regularly scheduled time. Due to Marlo’s condition, she informed her supervisors that she would not be able to work her new schedule because she needed to stick to her previous regular routine. She attempted to follow up numerous times, but no steps were taken to adjust her schedule. The schedule would have been easy to adjust since the store is open 24 hours and employed over 300 people. Due to Marlo’s ridged schedule she began to have attendance issues which caused her to come under scrutiny with her supervisors. She was eventually terminated in July of 2015 which came with a termination letter that said she could be reinstated in the future. However, two of her family members met with superiors at the Walmart store and they refused to rehire Marlo.

It was at this point Marlo decided to file a complaint with the Equal Employment Opportunity Commission. The EEOC wholeheartedly agreed with her and then subsequently filed a lawsuit against Walmart in the Eastern District of Wisconsin. The case finally went to trial in July of 2021 where Marlo won the case. Not only did the success in the case validate her concerns with the way her former employer treated her, but it also validated her perseverance pursuing justice over the years. The Americans with Disabilities Act facilitated the victory of this case and proved that the EEOC is necessary for people with disabilities to receive fair treatment in the workplace. The ADA states that the disabled employee may have cause for legal action if they are qualified for their position. In Marlo’s case, her Down Syndrome severely limited a major life activity, such as changing work hours, which meant she had protection under the Americans with Disabilities Act. Since Marlo had successfully performed her job for 16 years and had excellent performance reviews it’s incredibly clear that she was able to perform her job with reasonable accommodation. However, what is reasonable accommodation? “Courts have held that a “reasonable accommodation” is one whose costs do not exceed its benefits. This may include facility modifications, schedule adjustments, or equipment, and can even include transferring an employee to a new position for which they are qualified.” (Forbes, 2021). In Marlo’s scenario, they offered absolutely no reasonable accommodations.

The case was tried by Trial Attorneys Leslie Carter and Carrie Vance, along with Supervisory Trial Attorney Justin Mulaire and Lectric Chandler provided paralegal support at trial. The EEOC’s Chicago District Office is responsible for processing charges of employment discrimination, administrative enforcement, and the conduct of agency litigation in Wisconsin. The EEOC filed its lawsuit (EEOC v. Walmart Stores East LP, in the U.S. District Court for the Eastern District of Wisconsin, Case No. 17-cv-70) after first attempting to reach a pre-litigation settlement through its voluntary conciliation process (EEOC.gov, 2021). After the trial wrapped up the eight-member jury returned a verdict in favor of Marlo Spaeth. Marlo was awarded $125,150,000.00 on three claims of discrimination. The compensatory damages were $150,000 and the punitive damages totaled $125,000,000 (EEOC.gov, 2021). However, “This amount will almost certainly be reduced to $300,000, as the ADA places a cap of $300,000 on non-economic damages, such as compensatory and punitive damages” (Forbes, 2021).

At the beginning of my research, I was not on board with what seemed to be the egregious amount of punitive damages that the jury awarded to Marlo Spaeth. That is a significant amount of money to award someone. Some may even argue more than what she could spend in a lifeline. So why award someone with so much money? This is when I started changing my mind. Learning about Marlo’s long-standing schedule and her repeated positive performance reviews, why would they not want to keep her? Marlo was a loyal employee and worked well with her coworkers and customers, it seems like she was the type of employee they would want to keep. When Walmart switched to the automated scheduler, managers were encountering issues. The managers were either not trained properly on how to effectively use the system or chose not to reach out for help on how to make an exception for certain employees. This schedule adjustment would have been easy for Walmart managers to make. The fact that the supervisors at Marlo’s store did not make an effort to change her schedule and reasonably accommodate her especially after the letter stated they would rehire her but then chose not to is appalling. Per the ADA this gave Marlo probable cause to reach out to the EEOC and file the complaint which led to the lawsuit.

Knowing that the ADA caps punitive damages at $300,000 regardless of what the jury awards helps me understand why the award value was $125,000,000 in Marlo’s case. The intention was to make a statement to big corporations. A statement that says you must respect all of your employees no matter how powerful of a company you are. Had I been on the jury in this situation I would have agreed with their decision. Walmart intentionally eluded the prospect of changing Marlo’s schedule. They did not accommodate a person with an ADA covered disability. Nor did they even attempt to research any such accommodations. This is especially heinous since Walmart employs millions of people worldwide. Since the accommodation that Marlo required would have essentially been free the benefits would have far outweighed the cost. Which is in fact the definition of reasonable accommodation according to the ADA.

Big corporations need to be more proactive in accepting and making provisions for people with disabilities. Which includes a top-down approach such as providing more training on what that looks like through their leadership. Leadership would need to begin with more training for management, understanding of persons with disabilities and emotional intelligence among employees and leaders.

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