

## Wal-Mart's Dismal Record on Worker and Customer Safety

### Occupational Safety and Health Administration (OSHA) Enforcement Inspections (Dec 03-Dec 08)

Wal-Mart – 542  
Costco – 91  
Target – 238

**New York Wal-Mart worker trampled to death on black Friday; Wal-Mart named in wrongful death suit.** The family of a New York man who was trampled to death the day after Thanksgiving by a stampede of bargain hunting Wal-Mart shoppers has filed a wrongful death lawsuit. The victim, Jdimytai Damour, a temporary worker hired for the holiday season, was crushed to death when some 2,000 customers stormed into the Valley Stream store. [Associated Press, 12/3/08]

**Worker electrocuted at a Massachusetts Wal-Mart.** Romulo Santos, an overnight construction worker with a Wal-Mart contractor, was electrocuted while repairing wires destroyed by a demolition crew. OSHA is investigating the incident. Carlos Eduardo Siqueira, President of the Board of the Brazilian Immigrant Center, issued this statement: "Workers should be able to go to work and return home with their lives and limbs intact. We don't yet know the details of this tragic situation, but it's safe to say that exposing a laborer to live electricity in the middle of the night is a recipe for disaster." [Boston Herald, 9/10/08; Massachusetts Coalition for Occupational Safety and Health News Release, 9/10/08]

**Workers exposed to unhealthy levels of a lens-cleaning chemical.** In March 2008, the Occupational Safety and Health Administration ordered Wal-Mart to pay \$5,675 in fines and install ventilators at lab stations where employees use the chemical acetone. [The Columbus Dispatch, 10/4/08]

**Man killed after forklift incident.** A man was killed at a distribution center in Midway, Tennessee, following a forklift accident. The Tennessee Occupational Health and Safety Administration is investigating. [The Greeneville Sun, 11/6/08]

**Wal-Mart cited by Department of Labor for obstructing access to emergency exits.** The DOL filed suit in December 2004, after an OSHA compliance officer responded to a complaint of unsafe working conditions in a stockroom at a Wal-Mart in Hoover, Alabama. The U.S. Court of Appeals for the D.C. Circuit found that substantial evidence supported a finding that Wal-Mart violated the Occupational Safety and Health Act. [Wal-Mart Stores, Inc., v. Secretary of Labor, 406 F.3d 731 (DC Cir 2005)]

**California jury finds Wal-Mart guilty of negligence in providing unsafe working equipment.** Wal-Mart had hired an independent contractor to install sound systems, but insisted that the contract workers use the store's forklifts wherever possible in performing the work. Use of the forklift ended in an accident causing one employee to fall 12-15 feet from a platform. The jury found Wal-Mart partially at fault, by



supplying defective equipment to its contract employees. [Brian McKown v. Wal-Mart Stores, Inc., 27 Cal. 4<sup>th</sup> 219 (Cal. 2002)]

**Wal-Mart makes the National Council for Occupational Health and Safety's "Dirty Dozen" list.** The Council names Wal-Mart as one of twelve companies "whose reckless disregard for their employees' safety and health has had tragic consequences. These companies have been able to act with such negligence due to a lack of adequate sanctions from governmental regulations or public oversight." [NCOHS, "Workplace Health and Safety Dirty Dozen Report," <http://www.coshnetwork.org/Dirty%20Dozen%20final%20revised.pdf>]

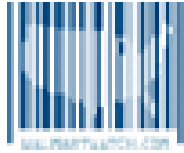
**Wal-Mart locks employees in its stores.** A Congressional Committee on Education and the Workforce report raised a number of alarming issues, including Wal-Mart's "lock-in" policy in which all store doors are locked at night inside and out so that no one may leave or enter the building. Workers often had to wait for hours off-the-clock for a manager to show up to let them go home after a shift; one employee suffered a broken foot while on the job, yet waited 4 hours to be let out; another worker cut her hand with a box cutter, but was forced to wait until morning to go to the hospital, where she received 13 stitches. [Congressman George Miller, Democratic Staff of the Committee on Education and the Workforce. "Everyday Low Wages: The Hidden Price We All Pay For Wal-Mart." 2/16/2004]

**Wal-Mart Stores and Parking Lots Are Prime Crime Locations: Some findings from the "Is Wal-Mart Safe?" study:**

- "Wal-Mart stores experience a significant number of police incidents. In 2004, police received 148,331 calls for service for the 551 Wal-Mart stores analyzed"
- "The average number of reported incidents per store for the 551 stores analyzed was 269"
- "The Wal-Mart stores in our sample that reported the most incidents in 2004 experienced higher average rates of reported police incidents than nearby Target stores"
- "Based on the average rate of reported incidents for the 551 Wal-Mart stores analyzed in this study, we estimate that in 2004 police may have received almost 1 million calls for service at Wal-Mart stores or parking lots – or 2 reported police incidents per minute in 2004"
- "Nationally, Wal-Mart stores cost local taxpayers an estimated \$77 million in increased policing costs in 2004"
- "Wal-Mart could implement roving security patrols at all stores nationwide at an estimated cost of 4 cents per monthly customer visit"

Source - <http://walmartcrimereport.com/report.pdf>

**Wal-Mart threatens workers for reporting problems to OSHA.** The Committee on Education and the Workforce report also described a 2002 complaint against Wal-Mart by the National Labor Review Board. According to the NLRB complaint, store officials threatened the health and safety of employees by



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telling workers that, if a worker filed an OSHA complaint regarding unsafe working conditions, any fines imposed upon the company would come out of employee bonuses. [Congressman George Miller, Democratic Staff of the Committee on Education and the Workforce. "Everyday Low Wages: The Hidden Price We All Pay For Wal-Mart." 2/16/2004]

**The Ontario Workplace Safety and Insurance Board fined Wal-Mart Canada \$500,000 for failing to follow workplace safety protocols.** Wal-Mart was fined after the retailer pleaded guilty to 25 charges of failing to notify the Board within 3 days of learning of injuries to its workers. In addition to the fine, the Ontario Court of Justice in Brampton ordered Wal-Mart to pay a "victim fine surcharge" of \$125,000. [*Environment, Health & Safety Today*, 5/18/2005]

**Toxic fumes make workers sick.** In London, Kentucky, at a distribution center, a dozen or so workers were struck ill by toxic fumes. The fumes were a result of poor ventilation while welding work was being done to freezer racks within the distribution center. Management responded by taking disciplinary action against workers who took sick leave during the 2-week welding project. [*Arkansas Democrat-Gazette*, 1/29/06]

**Wal-Mart fined by the U.S. Department of Labor for violating youth employment provisions of the Fair Labor Standards Act.** Wal-Mart had allowed teenage workers to operate hazardous equipment, with one incident resulting in a teenage worker being injured by a chainsaw. Wal-Mart was fined \$135,540. The DOL's investigation revealed that Wal-Mart employed 85 minors aged 16-17 who performed prohibited activities, including operating forklifts and operating scrap paper balers. [U.S. Department of Labor News Release, "Wal-Mart Agrees to Pay Fine for Violating Child Labor Laws." 2/14/2005]

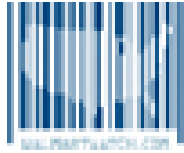
**Injured customer awarded \$435,000.** In March 1996, a customer who was injured at a Westminster, Colorado Wal-Mart store won \$435,000 from a Denver District Court jury. An attorney for the customer said 25,000 cases had been filed against Wal-Mart nationwide involving customer injuries resulting from falling merchandise. "I think juries are saying that you have the right to expect a safe shopping environment, said lawyer Jeff Hyman, who last year won a \$ 3.3 million jury award against Wal-Mart for head injuries suffered by a customer who was hit on the head by falling boxes. [*Rocky Mountain News*, 3/18/96]

**A chemical spill makes workers sick.** In December 2000, workers from a Wal-Mart in Elk Grove Village, Illinois were transported to an area hospital on Sunday after they got sick trying to clean up a chemical spill inside the store. Fire officials said a pallet containing fertilizer and two kinds of pesticides fell off a rack. When store workers tried to clean the 10- to 12-gallon mixture of chemicals, they were overcome by fumes. "There were a lot of unhappy shoppers," Lt. Richard Keyworth said. [*Chicago Daily Herald*, 12/18/00]

### **Case Examples from Federal Court**

*(All employees involved in these cases were injured on the job, applied for workers' compensation benefits and were ultimately terminated.)*

**Lisa Borsilli v. Wal-Mart Stores East, L.P.** Ms. Borsilli was employed by Wal-Mart in April 2005 as a cashier. She suffers from asthma requiring the use of multiple medications, including a hand-held inhaler pump that uses Bueterall. Because of the lack of advance notice on her asthma attacks, Ms. Borsilli kept an inhaler in a "fanny pack" around her waist. On February 19, 2006, Ms. Borsilli was injured while



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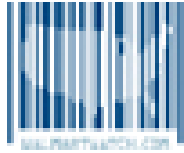
assisting a customer in lifting a heavy bag in the register area. Her shoulder injury would require surgeries in 2007 and 2008. After her injury, Ms. Borsilli applied for workers' compensation benefits and was forced to miss some work days. After missing work and having applied for workers' compensation, Wal-Mart management informed Ms. Borsilli that she was no longer allowed to wear her fanny pack containing her asthma medication. She was the only employee told to remove such an item from her person. Later that same day, she was called into the management office and terminated. [Filed 6/4/08 in Federal District Court for New York's Southern District. Settled 9/11/08. Case No. 7:2008cv05135.]

**Clyde Cox v. Wal-Mart Stores, Inc.** Mr. Cox worked as an automotive technician at a Wal-Mart in Kansas City, Kansas, between July, 2000 and November, 2004. While on the job, Mr. Cox was injured when a tire fell from a rack approximately 10-12 feet overhead and struck him in the head. Mr. Cox received injuries to his head, neck and arms. After receiving medical care, Mr. Cox was placed on light duty assignments by his physicians. Mr. Cox also filed for workers' compensation benefits. After filing for benefits, Mr. Cox was terminated on the grounds that his claim for benefits was adversely impacting the budget of Wal-Mart's Automobile Department. [Filed 11/28/06 in Federal District Court in Kansas. Settled 3/2/07. Case No. 2:2006cv02519.]

**Joey DiMaggio v. Wal-Mart Stores, Inc.** Mr. DiMaggio was injured in November 2004, while working in the receiving department of a Wal-Mart in Hammond, Louisiana. Though he was treated the next day and put on "light duty" work by his physician, Mr. DiMaggio was told by Wal-Mart management to keep working and that if another injury occurred he would be terminated. One week later, Mr. DiMaggio was diagnosed with a bulging disk and was ordered to make a permanent move to "light duty" work. Despite that, Mr. DiMaggio was told that if he wanted to keep his job, he had three options: demotion (with pay decrease) to cart collector; violating physician orders and returning to work without work restrictions, or take a leave of absence until his restrictions were lifted. He eventually decided to take the leave, but was told "it was too late" and was considered "voluntarily terminated." [Filed 1/11/08 in Federal District Court for Louisiana's Eastern District. Case remains open. Case No. 2:2008cv00310.]

**Tawnya Lewis v. Wal-Mart Stores, Inc.** Ms. Lewis suffered an on-the-job injury and filed a workers' compensation claim. Following her injury, Ms. Lewis was harassed and forced to work beyond the restrictions place on her by her doctor. As a result, Ms. Lewis hired an attorney who outlined her rights in a letter sent to her and her Wal-Mart supervisor. Upon receipt of that letter, hostility against her by management increased. In addition, Ms. Lewis had been taking leave to care for her seriously ill significant other. After receiving the attorney's letter, Wal-Mart changed its leave decision and forced her to take sick leave for her past absences. She was then terminated for poor attendance. [Filed 4/1/08 in Federal District Court in Oregon. Case remains open. Case No. 6:2004cv00004.]

**Paula Rahman v. Wal-Mart Stores, Inc.** Ms. Rahman has worked for Wal-Mart for several years in many positions, including cashier and greeter at a Wal-Mart in Mt. Pleasant, South Carolina. After sustaining an injury to her elbow while on the job, Ms. Rahman was transferred to a Wal-Mart in Summerville, 30 miles away. As a result of the injury, Ms. Rahman was placed on permanent restrictions. She would later be placed on restriction for spinal problems as well. Regardless, Ms. Rahman remained able to perform her position within her restriction. Following her injuries and being place on restrictions, however, Ms. Rahman was harassed and management refused to comply with her restrictions. She was called into an office with two female managers, and was harassed again. After filing with the South



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Carolina Human Affairs Commission, she was demoted and her pay and hours were reduced. [Filed 8/20/08 in Federal District Court in South Carolina. Case remains open. Case No. 2:2008cv02909.]

**Employee Stories about Workplace Safety**

Visit [www.walmartspeakout.com](http://www.walmartspeakout.com).

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