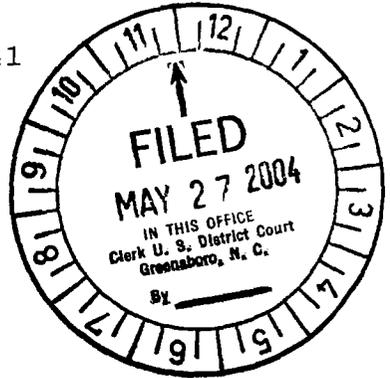


17.

D/LS

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHNNY D. PEAKE,)	
)	
v.)	CIVIL NO. 1:03CV00641
)	
WAL-MART STORES, INC.; and)	
WAL-MART ASSOCIATES, INC.,)	
)	
Defendants.)	



ORDER and JUDGMENT

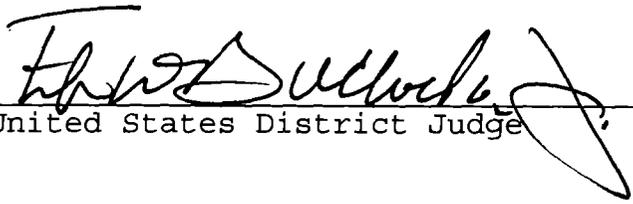
BULLOCK, District Judge

On May 29, 2003, Plaintiff filed a suit against Defendants, his former employers, which Defendants removed to this court on the basis of diversity of citizenship. Discovery has been completed, including the deposition of Plaintiff, and Defendants filed a motion for summary judgment on February 23, 2004, supported by a brief. On April 29, 2004, the Clerk of this Court wrote to the Plaintiff and advised him of his right to file a response in opposition and that his failure to do so may cause the court to conclude that the Defendants' contentions are undisputed or that the Plaintiff no longer wished to pursue the case. Plaintiff has not filed a response nor contacted the court in any way, despite the letter from the Clerk.

Local Rule 7.3(k) provides that failure to file a response to a motion will ordinarily result in the motion being granted as an uncontested motion. Nevertheless, the court has reviewed the Plaintiff's complaint and construed it liberally, the discovery in the case, including the Plaintiff's deposition, and the Defendants' contentions in their motion for summary judgment. Although Plaintiff alleges that he was terminated in retaliation for filing a worker's compensation claim in violation of North Carolina law, he provides no evidence to support this claim, and the Defendants have submitted evidence indicating a legitimate, non-discriminatory reason for his termination.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that Defendants' motion for summary judgment [Doc. #13] is **GRANTED**, and Plaintiff's complaint is **DISMISSED with prejudice**.

May **27** , 2004


United States District Judge