

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION at LONDON

CIVIL ACTION NO. 6:01-CV-339-KKC

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

PLAINTIFF,

v.

OPINION AND ORDER

WAL-MART STORES, INC.,

DEFENDANT.

This matter is before the Court on Wal-Mart's Motion in Limine to Exclude Evidence of Two Databases Created by Wal-Mart's Counsel (DE 507) and Wal-Mart's Objection to Plaintiff's Exhibit 132 Barnow's Rebuttal Report (DE 469).

Wal-Mart moves to exclude evidence of two databases that were created by Wal-Mart's counsel. This motion (DE 507) is GRANTED. The databases were not created for statistical analysis. They were created solely to catalog applications submitted by Wal-Mart during discovery. The party that produced the databases – Wal-Mart – argues they are unreliable and full of errors. This is the sole evidence before the Court regarding the reliability of the databases. Wal-Mart's statistical expert did not rely on either database in formulating his opinions. Further, the Court has no evidence before it regarding how these databases were constructed. Thus, the Court will exclude any evidence of the databases and any opinion relying on them.

As to Wal-Mart's objection to Barnow's Rebuttal Report (DE 469), the substance of this motion has been addressed in the Court's ruling on Wal-Mart's Motion to Strike the rebuttal report and with the ruling above. Accordingly, this motion (DE 469) is DENIED as moot.

Dated this 18th day of February, 2010.



Signed By:

Karen K. Caldwell *KKC*
United States District Judge