

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**RANDY BENNETT and
RICHARD TURNEY**

PLAINTIFFS

VS.

NO. 5:11CV00104-JMM

RICELAND FOODS, INC.

DEFENDANT

ORDER

Pending is Plaintiffs' motion for a new trial for the sole purpose of determining punitive damages. (Docket # 60). Defendant has filed a response.

Following the completion of the evidence, the Court ruled that the evidence was insufficient to support a claim for punitive damages. Specifically, the Court found that there was insufficient evidence of malice or reckless indifference on the part of the decision makers from which the jury could base an award of punitive damages. Accordingly, the Court declined to instruct the jury on punitive damages. Plaintiffs now ask the Court for a new trial for the purpose of determining punitive damages.

Punitive damages are appropriate if an employer engaged in intentional discrimination with " 'malice or reckless indifference to the [plaintiff's] federally protected rights.' " *Kolstad v. American Dental Ass'n*, 527 U.S. 526, 119 S.Ct. 2118, 144 L.Ed.2d 494 (1999) (citation omitted). A plaintiff in an employment discrimination case bears a heavy burden to demonstrate "malice" or "reckless indifference" to the plaintiff's federally protected rights such that punitive damages are justified. *See Webner v. Titan Distribution, Inc.*, 267 F.3d 828, 837 (8th Cir.2001) (citations omitted). After reviewing the record, the Court finds that Plaintiffs failed meet this

burden. Although the Court has found that there was sufficient evidence to support the jury's verdict of unlawful discrimination and to support the compensatory damages awarded, there was insufficient evidence of malice or reckless indifference to support the submission of punitive damages to the jury.

Accordingly, Plaintiffs' motion is DENIED.

IT IS SO ORDERED this 18th day of April, 2012.



James M. Moody
United States District Judge