

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

STEPHAN DEATON,	:	CASE NO. 3:14-cv-00086
	:	
<i>Plaintiff,</i>	:	JUDGE THOMAS M. ROSE
	:	
v.	:	
	:	
WALMART STORES, INC.,	:	
	:	
<i>Defendant.</i>	:	
	:	
	:	

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ENTRY AND ORDER GRANTING DEFENDANT'S  
PARTIAL MOTION TO DISMISS. DOC. 2.

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Pending before the Court for decision is Walmart Stores, Inc.'s (Defendant) Unopposed Partial Motion to Dismiss filed on May 19, 2014. Doc. 2. Therein, Defendant asserts that Stephan Deaton's (Plaintiff) Complaint should be dismissed, in part, for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). *Id.* The claim that Defendant is moving to dismiss is Count VII of the Complaint, filed on March 17, 2014, where Plaintiff asserts a common law claim of wrongful discharge in violation of public policy underlying R.C. 4123.90. Doc. 1. The Partial Motion to Dismiss is unopposed by Plaintiff and currently ripe for decision.

As the Defendant points out, *Bickers v. W. & S. Life Ins. Co.* established that R.C. 4123.90 provides the exclusive remedy for an employee alleging termination because of filing a workers' compensation claim and a public policy claim under these circumstances is prohibited. 879 N.E.2d 201, 207 (Ohio 2007).

Plaintiff has not opposed Defendant's Partial Motion to Dismiss and a public policy wrongful termination claim is not cognizable in Ohio. Therefore, it is **ORDERED** that Defendant's Partial Motion to Dismiss Count VII of Plaintiff's Complaint for failure to state a claim is **GRANTED**.

**DONE** and **ORDERED** in Dayton, Ohio, this Tuesday, July 8, 2014.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE