



**FOR IMMEDIATE RELEASE**

Tuesday, July 25, 2017

**CONTACT**

Melanie Fonder Kaye, 212-430-5982, [mkaye@abetterbalance.org](mailto:mkaye@abetterbalance.org)

**A Better Balance Files Additional Charges of Disability Discrimination  
Against Walmart Following “Pointing Out” Report**



Virginia James, former Walmart worker &  
A Better Balance client

NEW YORK—Less than two months after releasing its report, [“Pointing Out: How Walmart Unlawfully Punishes Workers for Medical Absences.”](#) A Better Balance yesterday filed additional charges of discrimination with the Equal Employment Opportunity Commission (EEOC) on behalf of four clients across the country. The charges are tied to the original charge filed by A Better Balance last fall on behalf of Arleja Stephens of Washington, D.C., alleging that Walmart’s absence control program violates the Americans with Disabilities Act (ADA), among other laws. The “Pointing Out” report garnered widespread attention, [including from \*The New York Times\*.](#)

“The fact that we have heard from hundreds more Walmart workers in just two months is extremely troubling. Walmart’s unfair and illegal practices punish vulnerable low-wage workers with disabilities, illnesses or unexpected caregiving responsibilities,” said Dina Bakst, Co-Founder and Co-President of A Better Balance. “The effects of this discriminatory treatment can be devastating for low-wage workers, who are often one medical emergency away from poverty.”

Walmart’s absence control program—a point system—unjustly, and in some cases, illegally, punishes workers for absences, according to the A Better Balance report and the EEOC charges filed yesterday.

All of the A Better Balance clients tell similar stories about their time working at Walmart with a disability, despite hailing from Nebraska, South Carolina, New York, and Florida. All were punished and given disciplinary absence “points” when they needed time off due to their



the work and family legal center

disabilities and all were told that doctors' notes would not obligate management to excuse medical absences. At Walmart, receiving too many points leads to termination ("pointing out") and affects pay raises, promotions, transfers, and other conditions of employment. Being punished for absences related to a disability runs afoul of the ADA's prohibition on disability discrimination and its requirement that employers provide workers with reasonable accommodations to allow them to continue safely working.

The workers are Virginia James from Charleston, South Carolina, James Moore from Catskill, New York, and two workers who require anonymity—one from a small town in Nebraska and one from the Tampa area, Florida.

Walmart fired Virginia James in April 2017 because she was occasionally absent when her asthma or diabetes would prevent her from working. She had applied for intermittent leave so that her medical absences would be approved, but Walmart denied her application because she had allegedly not worked enough hours to qualify for the federal Family and Medical Leave Act. Workers are not required to work a certain number of hours before they are eligible for protection under the Americans with Disabilities Act. She also tried bringing in doctors' notes to her managers when she had disability-related absences, but was told that they could not consider doctors' notes.

In January 2017, Walmart fired James Moore because he missed work when his diabetes prevented him from doing his regular job duties. He was told that Walmart didn't accept doctors' notes to excuse absences.

Carrie\*, a client in Florida, had worked for Walmart since 2004, and she thought she'd spend her whole career there. Unfortunately, she began suffering from depression during her pregnancy. When her depression got so severe that she occasionally had to miss work, she told her managers right away and tried to bring in medical documentation to excuse her absences. They refused to take the medical documentation, saying Walmart's policy was not to consider doctors' notes. In early July 2016, Carrie had to miss work because she went into pre-term labor. She was fired the next day for pointing out.

Another client, Jeanette\*, from a small town in Nebraska, had to miss work when she suffered from migraines related to fibromyalgia. She was told it was Walmart's policy not to consider her doctor's notes to excuse her absences. When she moved to another town in Nebraska, she wanted to transfer to a new Walmart store, but due to having absence points on her record, she was ineligible for the transfer and is now unemployed.

With 2.3 million employees around the world and total revenue of close to \$486 billion in the most recent fiscal year, Walmart is the world's largest company by revenue and the world's largest private employer. In the United States, Walmart is the largest private employer with 5,332 stores and 1.5 million associates. Walmart can have particular significance in rural areas, where there may be few other jobs available.



the work and family legal center

Despite its tremendous resources, Walmart maintains punitive policies and practices that destabilize employees' lives and push them out of work when they need a paycheck the most. Because Walmart is so large, it often sets the standard for the entire retail industry and these practices hit vulnerable employees the hardest.

The report and charges follow a class action lawsuit brought against Walmart earlier this year by two former employees who faced pregnancy discrimination. The lawsuit claimed that the retail giant failed to provide thousands of pregnant workers on-the-job accommodations. A Better Balance, National Women's Law Center, Mehri & Skalet, and Sedey Harper & Westhoff filed the complaint on behalf of the employees in the U.S. District Court for the Southern District of Illinois.

\*Names changed to protect privacy.

###

*A Better Balance clients and attorneys are available for interviews.*

*[A Better Balance](#) is a national legal advocacy organization dedicated to promoting fairness in the workplace and helping workers meet the conflicting demands of work and family. Follow on Twitter at [@ABetterBalance](#) and on Facebook at <http://www.facebook.com/ABetterBalance>.*