

### CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented to: Agency(ies) Charge No(s):

FEPA  
 EEOC

N/A and EEOC

State or local Agency, if any

Name (indicate Mr. Ms. Mrs.)

**Whitney Tomlinson**

Home Phone (Incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**Walmart**

No. Employees, Members  
Approximately: **More than 15**

Phone No. (Include Area Code)  
**770-603-4400**

Street Address

City, State and ZIP Code

**6055 S. Fulton Pkwy, Atlanta, GA 30349**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE  COLOR  SEX  RELIGION  NATIONAL ORIGIN

RETALIATION  AGE  DISABILITY  OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE  
Earliest Latest

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)):

**Please see attached.**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

Charging Party Whitney Tomlinson is Represented by:

Dina Bakst (Lead Contact)  
Elizabeth Gedmark  
A Better Balance  
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Emily Martin (Lead Contact)  
Sunu Chandy  
Sarah David Heydemann  
National Women's Law Center  
11 Dupont Circle, NW Ste. 800  
Washington, DC 20036  
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The particulars are:

Whitney Tomlinson has worked for Wal-Mart Stores, Inc. ("Walmart") from on or about [REDACTED] to the present as a packer in the distribution center in Atlanta, Georgia. During that time, Walmart discriminated against her based on sex and because of her pregnancy when it: (1) pushed her onto an unpaid leave of absence stating that she was allegedly a "liability;" (2) failed to accommodate her pregnancy as it accommodates others similar in their ability or inability to work.

Ms. Tomlinson also brings her charge of sex discrimination on behalf of all female associates employed by Walmart and its subsidiaries who faced pregnancy discrimination under Walmart's policy and practice of not accommodating pregnant employees.<sup>1</sup> Walmart has

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<sup>1</sup> A Better Balance, the National Women's Law Center, and Mehri & Skalet, PLLC are also counsel to two pending additional charges of discrimination against Walmart for sex and pregnancy discrimination (EEOC Charge Nos. [REDACTED] (Candis Riggins) and [REDACTED] (Juanita Fischer)).

engaged in systemic discrimination against a class of pregnant employees for several years by engaging in a pattern of not accommodating pregnant employees in the ways they have accommodated other individuals who are similar in their ability or inability to work, in violation of the Pregnancy Discrimination Act.

Prior to March 2014, Walmart's written accommodation policy singled out pregnancy as a medical condition not eligible for a range of identified accommodations. The policy did not treat pregnant workers the same as those similar in their ability or inability to work, such as, for example, workers who had disabilities that required accommodation. Walmart refused to provide reasonable accommodations to pregnant workers when they provided them to non-pregnant workers similar in their ability or inability to work. In March 2014, Walmart announced a change in its policies related to pregnancy accommodation. The revised policy mentions pregnancy only in a statement that disabilities entitled to reasonable accommodation include "a temporary disability caused by pregnancy." The language of the policy restricts reasonable accommodations only to people who have a "temporary disability caused by pregnancy"—demonstrating that Walmart's pattern and practice of treating pregnant workers worse than individuals similar in their ability or inability to work continues. Many pregnant workers not deemed to have a disability by Walmart still have a medical need for accommodations.

At the end of [REDACTED], Ms. Tomlinson found out she was pregnant, and informed her immediate supervisor at the time, [REDACTED], and someone who worked for Human Resources.

Both before and after she was pregnant she avoided lifting heavy boxes. Her co-workers and her supervisor would help her lift on occasion and were able to easily provide her this assistance without incident.

On or about [REDACTED] she experienced morning sickness while at work. Her supervisor, Department Manager [REDACTED], instructed her to clock out and go to the doctor, and to bring back paperwork from the doctor.

On or about [REDACTED], Ms. Tomlinson returned to work with a note from her doctor stating that she had some lifting restrictions.

After showing the doctor's note to Department Manager [REDACTED], he told her to take the note to Human Resources. Ms. Tomlinson took the note to [REDACTED], a Human Resources employee. [REDACTED] told her that Walmart would not accommodate her and that she was "a liability." Further, she told her that she wouldn't be able to work anymore during her pregnancy and that she should clock out and go home. [REDACTED] instructed her to apply for a personal leave of absence. Ms. Tomlinson did so to avoid being fired, although she wished to continue working rather than take leave.

Ms. Tomlinson called Walmart at least every two weeks to inquire about open positions, to no avail. She also inquired about applying to open positions at the Walmart in her own town. She was never reassigned or permitted to go back to a position while she was pregnant. At the same time, Ms. Tomlinson was aware of at least one other employee at her distribution center who was similar to his ability or inability to work and given a seated position as an accommodation after experiencing a workplace injury to his foot.

Despite the fact that Ms. Tomlinson repeatedly asked for an accommodation so that she could continue working while she was pregnant, Walmart placed her on unpaid leave of absence for approximately three months. Ms. Tomlinson faced a severe financial and emotional hardship during this time when she was expecting a child.

Ms. Tomlinson gave birth on [REDACTED] and returned to her position with Walmart soon after giving birth.

In summary, Walmart discriminated against Ms. Tomlinson and denied her accommodations to which she was entitled as a pregnant employee, because they provide accommodations to others similar in their ability or inability to work.