



WAL★MARTWATCH

**REASONABLE
ACCOMMODATION**

DENIED

An Emerging Tale of Lawsuits, Settlements, and
Wal-Mart's Broken Promises to
Applicants and Employees with Disabilities

October 2008

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EXECUTIVE SUMMARY

In August 2007, Wal-Mart Watch began an exhaustive study of all federal discrimination lawsuits, open or closed, filed against Wal-Mart Stores, Inc., and its subsidiaries (“Wal-Mart”) from January 1, 2004 until the present. It is already widely known that Wal-Mart is the defendant in the largest workplace gender discrimination class action lawsuit in the history of the United States, *Dukes v. Wal-Mart*. Wal-Mart Watch’s research reveals that Wal-Mart’s discriminatory practices extend far beyond simply gender or race, and that the methods of discrimination overall are quite extraordinary. To date, we have found more than 700 discrimination cases filed against Wal-Mart since 2004.

This paper focuses on a subset of that list – cases of discrimination against individuals with disabilities – and highlights two important patterns:

- Wal-Mart’s refusal to provide Americans with Disabilities Act (“ADA”)-mandated reasonable accommodations for employees and applicants with disabilities; and
- Requiring employees with disabilities who request a reasonable accommodation to take a leave of absence.

Wal-Mart’s history with the Equal Employment Opportunity Commission (“EEOC” or the “Commission”), the enforcement arm of the ADA, is littered with lawsuits, settlements, and broken promises to eliminate barriers for applicants and employees with disabilities. EEOC records show that, by June 2001, the Commission had filed sixteen lawsuits against Wal-Mart for violating Title I of the ADA, the most filed against any corporation since the ADA went into effect in mid-1992. Three additional cases were filed within the next four years. Another new case was filed in September 2008.

The largest settlement came in 2001 – \$6.8 million in total to be paid by Wal-Mart – when a consent decree was reached resolving thirteen EEOC lawsuits filed between November 1998 and September 2001. This particular settlement required Wal-Mart to hire an ADA Coordinator, who has expertise in the ADA and personnel matters, to oversee Wal-Mart’s compliance with and implementation of the consent decree.

Since then, Wal-Mart’s ADA office has been busy. Since January of 2004, at least 108 cases have been filed under the ADA in federal district courts across the country. Twenty have already been filed in 2008. Many of these were filed by people who requested and were either denied reasonable accommodations and/or fired. Some were also “encouraged” to agree to take a leave of absence, from which they would never return to work. This paper will refer to the latter tactic as the “leave of absence trick.”

This “leave of absence trick” is not restricted to employees with disabilities, as several cases involving use of the strategy with non-ADA medical issues also exist. Slight variations occur depending on the particulars of the case, usually related to the individual’s awareness of their rights under the ADA and other laws. However, all cases cited in this report are filed under the ADA, and the general pattern of each is eerily similar.

This “leave of absence trick” often works as follows:

1. An employee requests an ADA-mandated “reasonable accommodation” in order to deal with a permanent or temporary disability.
2. Wal-Mart orders the requesting employee to take a leave of absence while the company “acts” on the reasonable accommodation request.
3. If the employee agrees to take a leave, one of two things generally happens:
 - The accommodation is granted, but there are no positions available for the employee returning from leave; or
 - The accommodation is denied with management claiming the employee must be “100% capable of working for Wal-Mart,” at which point the employee is terminated for failing to return from leave.

Wal-Mart Watch believes that for each case found in which Wal-Mart has utilized this tactic, there are many others that were never filed because of the overwhelming financial obstacles involved for an average employee to litigate against Wal-Mart. Furthermore, we believe that this tactic is designed to circumvent the ADA, allowing Wal-Mart to essentially dispose of unwanted employees who request accommodations.

All of this information begs a question: Why would Wal-Mart use this tactic? In most of the cases, the employees subject to the leave of absence trick had worked at Wal-Mart for some time and had excellent work records.

One possible explanation is the correlation between the timing of these cases and the infamous Chambers Memo, an internal document written in early 2005 by Wal-Mart’s then head of Human Resources, Susan Chambers, which recommended that Wal-Mart needed to “Redesign...job design, to attract a healthier, more productive workforce.”

Another theory is that this tactic is just another in a long list of money-saving actions taken by Wal-Mart, such as appealing property tax assessments, meant in the end to save the company even the smallest amount. These actions appear to be driven by the internal belief that Wal-Mart shouldn’t be required to do something - in this case, employ people with disabilities.

Regardless of the reasons why, Wal-Mart frequently denies reasonable accommodations and often “tricks” employees with disabilities and other health issues into taking forced leaves of absence, ultimately resulting in termination. However, the termination comes only after dragging these employees through a long, painful process. At the end of that process, often the only remaining option for employees is to sue the company to get their jobs back, which as stated above is not a viable option for the majority of hourly Wal-Mart employees.

Of course, Wal-Mart executives would never admit that the company employs these tactics. However, Wal-Mart Watch hopes the information presented in this report will empower employees, plaintiffs’ attorneys and the media to ask questions and force Wal-Mart executives to justify their actions in the egregious examples in this paper and the hundreds of other cases not filed.

About Wal-Mart Watch

In Spring 2005, Wal-Mart Watch began a nationwide public education campaign to challenge the world's largest retailer, Wal-Mart, to become a better employer, neighbor, and corporate citizen.

Wal-Mart Watch aggressively tells a new, more truthful Wal-Mart story. We bridge the gap between ordinary citizens and community organizations concerned about Wal-Mart's unchecked growth and negative impact on our society. We challenge Wal-Mart to embrace its moral responsibility as the nation's biggest and most important corporation.

Our aim is real change—transparent and lasting—to benefit Wal-Mart communities. To date, we have made remarkable progress in getting Wal-Mart to respond to a wide array of concerns about its business practices. Wal-Mart has acknowledged the harm it causes by providing poor health benefits that force its employees to seek taxpayer-supported public assistance. It has taken some promising first steps on a long road toward creating a more environment-friendly business. We are hopeful the company is serious when it acknowledges that change is necessary, and we will continue to push Wal-Mart forward.

As our nation's largest employer and most successful company, Wal-Mart is most certainly an American institution. Wal-Mart occupies a unique position in our world by virtue of its size, reach and responsibility for the livelihoods of millions of workers and the needs of billions of consumers. And with such overwhelming influence come certain moral responsibilities.

For more information on Wal-Mart or the Americans with Disabilities Act, please contact us at the address below, or see Appendix C for more organizations involved in protecting the rights of individuals with disabilities.

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INTRODUCTION

The Americans with Disabilities Act of 1990

On July 26, 1990, President George H.W. Bush signed into law the Americans with Disabilities Act of 1990. The Americans with Disabilities Act of 1990 established legal protections for disabled people in the workforce.¹ The Act prohibits discrimination against people with disabilities in employment (Title I), in public services (Title II), in public accommodations (Title III) and in telecommunications (Title IV), and was the first comprehensive Civil Rights Law for persons with disabilities – it has been described as the Emancipation Proclamation for the disability community.²

A national survey conducted in 1985 found that prior to enactment of the ADA, “49 percent of disabled respondents could not use public transit systems, 40 percent found their mobility limited by inaccessibility in public buildings, 66 percent were not working, and, of those working, 25 percent had experienced job discrimination because of their disability.”³

The establishment of the ADA intended to bridge the gap between the public and private sectors and created stronger regulatory requirements for employers. Previously, people with disabilities were routinely denied jobs or terminated from their jobs when employers found out that they had a disability. Today, the ADA acts to prohibit this form of discrimination by creating standards for the application and hiring process which limit the employer’s knowledge of the applicant’s disability in both the public and private sector. Under the law, a disabled person who meets all of the prerequisites for a particular job and is able to perform the ‘essential’ functions of the job with or without reasonable accommodation from their employer, cannot be passed over for employment simply because that person is disabled.

Why is this important? In its deliberations on the ADA, Congress cited 43 million Americans as having one or more physical or mental disabilities, and the number of people who have disabilities is large and continues to grow.⁴ In addition, advances in medical practice have tended to increase rather than decrease the detection rate of incidence of disability, especially among younger persons.⁵ The ADA was intended to cover the full spectrum of disabilities, both visible and invisible, and it is vital that barriers to employment to those with disabilities are challenged wherever they appear.

1 29 CFR 1630, 1640, 1641.

2 U.S. Equal Employment Opportunity Commission. Online at: <http://www.eeoc.gov/ada/index.html>.

3 International Center for the Disabled and the National Council on the Handicapped. “Bringing Disabled Americans into the Mainstream.” ICD and National Council (Washington, D.C., 1986).

4 DBTAC: National Network of ADA Centers. “Historical Context of the ADA.” Online at: <http://www.adata.org/about/history.html>.

5 Ibid.

WAL-MART AND THE EEOC

The Equal Employment Opportunity Commission is the enforcing agency for the employment provisions of the ADA. The Commission is responsible for, among other things, enforcing the Title I prohibition of discrimination in employment against people with disabilities. In Fiscal Year 2007, the EEOC received 17,734 charges of disability discrimination.⁶ 15,708 of these were resolved, with the EEOC recovering \$54.4 million benefitting 3,190 disabled individuals (not including monetary benefits from litigation).⁷

Guidelines

To be protected under the ADA, one must have a record of or be regarded as having a substantial – as opposed to a minor – impairment.⁸ A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, learning, performing manual tasks, and caring for oneself.⁹

In order to be protected under the ADA, an individual must be qualified to perform the essential functions or duties of a job, with or without reasonable accommodation.¹⁰ Essential functions are the fundamental job duties that one must be able to perform on one's own or with the help of a reasonable accommodation.¹¹ An employer cannot refuse to hire someone because a disability prevents that person from performing duties that are not essential to the job.¹²

A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.¹³ Employers are required to provide reasonable accommodations to qualified applicants or employees with a disability unless the employer can show that providing that accommodation would cause an undue hardship -- that is, that it would require significant difficulty or expense.¹⁴

Reasonable accommodations may include:¹⁵

- Providing or modifying equipment or devices;
- Job restructuring;

6 U.S. Equal Employment Opportunity Commission. "Disability Discrimination." Online at: <http://www.eeoc.gov/types/ada.html>.

7 U.S. Equal Employment Opportunity Commission. "Americans with Disabilities Act of 1990 (ADA) Charges." Online at: <http://www.eeoc.gov/stats/ada.html>.

8 42 U.S.C. 12111(8). See also: U.S. Equal Employment Opportunity Commission. "Are you protected by the ADA?" Online at: <http://www.eeoc.gov/facts/ada18.html>.

9 U.S. Equal Employment Opportunity Commission. "Are you protected by the ADA?" Online at: <http://www.eeoc.gov/facts/ada18.html>.

10 Ibid.

11 Ibid.

12 Ibid.

13 42 U.S.C. 12111(9).

14 42 U.S.C. 12112(a), (b)(5)(A).

15 U.S. Equal Employment Opportunity Commission. "What is Reasonable Accommodation." Online at: <http://www.eeoc.gov/facts/ada18.html>.

- Part-time or modified work schedules;
- Reassignment to a vacant position;
- Adjusting or modifying examinations, training materials, or policies;
- Providing readers and interpreters; and
- Making the workplace readily accessible to and usable by people with disabilities.

In addition, the EEOC limits what information employers can seek in response to a request for accommodation: employers are entitled to documentation showing a person has a disability which necessitates the accommodation requested, but employers cannot ask for all of a person's records, therapy notes, etc.¹⁶ Finally, the ADA requires employers to engage in the interactive process once an employee makes a request for reasonable accommodation.¹⁷

It is unlawful for an employer to retaliate against an employee for asserting his or her rights under the ADA.¹⁸ The Act also protects an employee if he or she is a victim of discrimination because of a family, business, social or other relationship or association with an individual with a disability.¹⁹

A charge of discrimination generally must be filed within 180 days of the alleged discrimination taking place.²⁰ An individual has up to 300 days to file a charge if there is a state or local law that provides relief for discrimination on the basis of disability.²¹ If it is found that discrimination has occurred, an individual or employee may be entitled to a hiring, promotion, reinstatement, back pay, and attorney fees.²²

The EEOC and Enforcement Actions Against Wal-Mart

One element of the EEOC's power to enforce requirements of the ADA is through the Commission's ability to litigate against employers who refuse to voluntarily reconcile violations against employees and applicants.²³ Resources do not allow the EEOC to prosecute every case, which is why the Commission uses "strategic and vigorous" litigation as an enforcement tool.²⁴

Wal-Mart's history with the EEOC is littered with lawsuits, settlements, and broken promises to eliminate barriers for applicants and employees with disabilities. EEOC records show that by June 2001, the Commission had filed sixteen suits against Wal-Mart for violating Title I of the ADA - the most filed against any single corporation since the ADA went into effect in mid-1992.²⁵ Three more

16 Mary Giliberti. "The EEOC and the ADA's Reasonable Accommodation Mandate." Community Support Network News. Summer/Fall 1994.

17 29 C.F.R. § 1630.2 (o)(3).

18 42 U.S.C. 12203.

19 42 U.S.C. 12112(b)(4).

20 29 CFR 1601.13(a).

21 29 CFR 1601.13(a)(3).

22 U.S. Equal Employment Opportunity Commission. "What Do I Do if I Think I Have Been Discriminated Against." Online at: <http://www.eeoc.gov/facts/ada18.html>.

23 Equal Employment Opportunity Commission, Office of Communications and Legislative Affairs. "Highlights of EEOC Enforcement of the Americans with Disabilities Act." July 2000.

24 Ibid.

25 Human Rights Watch. "Discounting Rights: Wal-Mart's Violation of U.S. Workers' Right to Freedom of Association." May 2007. Online at: <http://hrw.org/reports/2007/us0507/>.

cases would be filed within the next four years.²⁶ Another was filed in September 2008.²⁷

The largest settlement would come in 2001, when a consent decree was reached resolving thirteen EEOC lawsuits filed between November 1998 and September 2001. According to a Human Rights Watch report, three of the remaining cases ended with verdicts against Wal-Mart, all of which were upheld on appeal.²⁸ And two cases settled recently in 2008 ended with Wal-Mart agreeing to pay out over \$550,000 to one former employee and one former applicant.

Wal-Mart's "Matrix of Essential Job Functions" Leads to Massive Settlement

Ten years after passage of the ADA, the EEOC alleged that Wal-Mart's pre-employment questionnaire, "Matrix of Essential Job Functions," violated employment discrimination provisions by seeking disability-related information from applicants before making conditional offers of employment.²⁹ Between 1994 and 1998, Wal-Mart was soliciting disability-related information from its applicants through questions listed on a pre-employment "matrix" questionnaire.³⁰ Applicants were asked to indicate on the form whether they could do the job or whether they could do the job with an accommodation. If the latter was indicated, applicants were asked to identify the accommodation.

Thirteen cases were filed against Wal-Mart between November 1998 and September 2001 related to the use of the matrix questionnaire and other discriminatory practices. These thirteen cases originated in eleven different states, including California, Ohio, Arkansas, Virginia, North Carolina, Illinois, New York, New Mexico, Arizona, Missouri and Texas. As part of a consent decree reached in December 2001, Wal-Mart was required to pay \$6.8 million in damages to disabled workers and job applicants.³¹ The settlement also included case-specific provisions, which included individual damage awards and promises to hire, re-hire, or reasonably accommodate the workers and applicants involved.³² One individual award included a \$100,000 punitive damage award for a man who was refused employment because of an amputated arm – the damage award at the time was the largest ever levied against a company for asking an unlawful medical question under the ADA.³³ The decree also created two separate funds: a \$3.8 million fund for the identified parties in the thirteen lawsuits, and a \$3 million fund to provide damages to individuals not yet identified but who were harmed by the pre-employment questionnaire and other ADA violations.³⁴

As an additional measure, the EEOC required Wal-Mart to take the unique step of creating its own ADA office, comprised of a newly-created ADA Coordinator position to oversee Wal-Mart's compli-

26 Equal Employment Opportunity Commission. "Equal Employment Opportunity Commission's Docket of Active and Resolved ADA Cases." February 28, 2005.

27 Sean Driscoll. "Equal Employment Opportunity Commission files suit against Wal-Mart." Rockford Register Star. September 9, 2008.

28 Human Rights Watch. "Discounting Rights: Wal-Mart's Violation of U.S. Workers' Right to Freedom of Association." May 2007. Online at: <http://hrw.org/reports/2007/us0507/>.

29 Equal Employment Opportunity Commission News Release. "Comprehensive EEOC, Wal-Mart Settlement Resolves Disability Lawsuit." December 17, 2001. Online at: <http://www.eeoc.gov/press/12-17-01.html>.

30 Ibid.

31 Equal Employment Opportunity Commission. "Equal Employment Opportunity Commission's Docket of Active and Resolved ADA Cases." February 28, 2005.

32 Ibid.

33 Marta Russell. "A Brief History of Wal-Mart and Disability Discrimination." ZNet. February 15, 2004.

34 Equal Employment Opportunity Commission News Release. "Comprehensive EEOC, Wal-Mart Settlement Resolves Disability Lawsuit." December 17, 2001. Online at: <http://www.eeoc.gov/press/12-17-01.html>.

ance with and implementation of the consent decree.³⁵ The person hired as the ADA Coordinator would need to possess expertise on the ADA and personnel matters, and would serve several functions including coordinating Wal-Mart's compliance with the ADA, maintaining records for all employee requests for accommodation under the ADA, and assisting in developing Wal-Mart's ADA policy.³⁶

Lawsuit Settled with Deaf Employees; Wal-Mart in Contempt for Breaking Promises

Prior to agreeing to the multi-lawsuit consent decree above, Wal-Mart was staring down another lawsuit filed on behalf of two deaf Wal-Mart applicants by the EEOC and the Arizona Center for Disability Law. The lawsuit seemingly ended with a consent decree agreed to by Wal-Mart in January 2000, but the case turned out to be far from over.

Jeremy Fass and William Darnell were both qualified applicants when they applied for employment at a Wal-Mart in Tucson, Arizona in 1995. In fact, the only thing that would differentiate them from any other applicant is the fact that Jeremy Fass and William Darnell were and are deaf. Neither man ever received a call back, however, even though Fass' mother, who worked at the store, knew the Tucson Wal-Mart was hiring.³⁷ When Fass and Darnell inquired further, they were informed there were no jobs available.³⁸

In 1997, a suit was initiated against Wal-Mart under the ADA.³⁹ Under the resulting consent decree, both Fass and Darnell were paid \$62,250 plus profit sharing and reimbursement for out-of-pocket medical expenses that would have been covered by insurance had the two men been hired.⁴⁰

Wal-Mart also agreed, as part of the decree, to take steps to prevent additional discrimination against deaf employees and applicants in the future, to include a provision requiring in-store accommodations for the deaf and hearing impaired, and to require company officials to meet with job-placement agencies for the deaf and hearing impaired to discuss hiring and employment opportunities.⁴¹ The initial consent decree was not the end of the story, however.

In June 2001, a federal district court in Arizona held Wal-Mart in contempt for violating the decree.⁴² Judge William Browning found that Wal-Mart failed to fulfill the obligations it had agreed to, including performing adequate training on issues involving the deaf, revising company policies, conducting meetings to recruit people who have disabilities, and taking additional measures to prevent discrimination in the future.⁴³

35 Equal Employment Opportunity Commission Consent Decree. *EEOC v. Wal-Mart Stores, Inc.* Civil Action No. S99-0414. December 17, 2001. Online at: http://www.eeoc.gov/court/walmart_decree.html.

36 Ibid.

37 "Wal-Mart Must Air ADA Commercial." *Business and Legal Reports*. June 19, 2001.

38 Ibid.

39 Equal Employment Opportunity Commission News Release. "Wal-Mart Settles Employment Discrimination Claim of Two Applicants Who Are Deaf." January 7, 2000.

40 Equal Employment Opportunity Commission Consent Decree. *EEOC v. Wal-Mart Stores, Inc.*, Civil Action No. 98-0276 TUC WDB (D.Ariz. 2000).

41 Ibid.

42 Human Rights Watch. "Discounting Rights: Wal-Mart's Violation of U.S. Workers' Right to Freedom of Association." May 2007. Online at: <http://hrw.org/reports/2007/us0507/>.

43 Equal Employment Opportunity Commission News Release. "Wal-Mart TV Ad Tells the Story of Two Deaf Men's Employment Discrimination Claim Against the Retail Giant." October 23, 2001.

In addition to railing against Wal-Mart for failing to allow the EEOC and the Arizona Center for Disability Law to visit its stores to ensure compliance with the consent decree, C. Emanuel Smith, acting regional attorney for EEOC's Phoenix District Office, noted:⁴⁴

"It is extremely unusual for EEOC to have to ask a court to hold an employer in contempt. Both EEOC and the Arizona Center for Disability Law have made every effort to obtain Wal-Mart's voluntary compliance with the Consent Decree, but to no avail. We are amazed that a company the size of Wal-Mart failed to provide court ordered training."

In September 2001, a federal district court judge in Arizona approved an amended consent decree that included additional Wal-Mart commitments, including: requiring a payment of \$427,500 to the Arizona Center for Disability Law, hiring a minimum of five additional qualified deaf applicants at its Arizona stores, and amending its employment policies and practices to prevent future discrimination.⁴⁵ In addition, the federal district court judge required Wal-Mart to air a television advertisement in Phoenix and Tucson featuring Fass and Darnell telling their story of discrimination by Wal-Mart and of later working for the company. The 60-second ad featured phone numbers for the EEOC and the Arizona Center for Disability Law, for individuals with questions about their rights or who believed they had been discriminated against.⁴⁶

Recent EEOC Lawsuits Find Wal-Mart Back in the Crosshairs

In 2008, Wal-Mart settled two ongoing EEOC lawsuits within two months of each other, ending what had been years of litigation in each case, and a third was filed in Illinois regarding a woman suffering from epileptic seizures.

Steven Bradley

The first case involved Steven Bradley, a job applicant in Richmond, Missouri, who, because of his cerebral palsy, was forced to use crutches or a wheelchair to overcome his limited mobility.⁴⁷ Bradley applied in 2001 at a time when Wal-Mart was conducting mass hiring for a new 24-hour supercenter in Richmond, and so Bradley applied across the board for any available job.⁴⁸ During his interview, however, he was questioned about his ability to work using his wheelchair, and was told that because of his condition he was best suited for the position of "greeter."⁴⁹ Wal-Mart refused to hire him, claiming his use of a wheelchair would pose a safety risk to himself and to customers.

The case was initially dismissed, but on review in February 2007, the Eighth Circuit Court of Appeals held that employers bear the burden of proving that a disabled employee or job applicant poses

44 Equal Employment Opportunity Commission News Release. "EEOC Files Contempt Motion Against Wal-Mart for Violating Consent Decree in Disability Bias Case." May 10, 2001.

45 Equal Employment Opportunity Commission Amended Consent Decree. *EEOC v. Wal-Mart Stores, Inc.*, Civil Action No. 98-0276 TUC WDB (D.Ariz. 2001).

46 Equal Employment Opportunity Commission News Release. "Wal-Mart TV Ad Tells the Story of Two Deaf Men's Employment Discrimination Claim Against the Retail Giant." October 23, 2001.

47 "EEOC files disability discrimination suit against Wal-Mart." St. Louis Business Journal. January 20, 2004.

48 Equal Employment Opportunity Commission News Release. "Wal-Mart to Pay \$300,000 to Rejected Job Applicant With Disability." April 17, 2008.

49 Ibid.

a “direct threat” to the health or safety of himself or others, and remanded it to federal district court where trial was scheduled to commence in March 2008.⁵⁰

The case was eventually settled for Bradley in the amount of \$300,000. In addition to the financial agreement, Wal-Mart agreed to provide ADA training at its Richmond store, notify applicants about the settlement, and inform Kansas City-area job service agencies that the company seeks to employ qualified persons with disabilities.⁵¹

Glenda Allen

Glenda Allen’s story is on the opposite end of the spectrum from Bradley’s, yet the result was the same. Allen had been employed as a pharmacy technician at Wal-Mart since July 1993.⁵² In 1994, Allen was shot in a robbery attempt at a different employer, suffering – among other injuries – permanent damage to her spinal cord, which forced her to walk with the aide of a cane.⁵³ Despite her medical condition, Ms. Allen was able to perform the full scope of her duties and responsibilities as a pharmacy technician.⁵⁴

According to Allen, Wal-Mart remained a cooperative employer – that is, until a new pharmacy manager was hired who refused to accommodate her injuries and demoted her to door greeter in 2003.⁵⁵ When Allen refused the demotion, Wal-Mart terminated her on April 8th of that year.⁵⁶ The lawsuit went to court where Wal-Mart filed a motion for summary judgment. That motion was denied, and the EEOC filed a cross-motion for summary judgment which was partially granted in March 2008. At that point, Wal-Mart finally agreed to settlement talks and Allen eventually received \$250,000.⁵⁷

Both the Bradley and Allen settlements included provisions requiring Wal-Mart to adequately train management and employees at its stores on the ADA, and to actively seek out qualified individuals with disabilities. Commenting on her case, Glenda Allen had the following to say:⁵⁸

“After beating all the odds -- surviving my injury when not expected to survive, walking again when told that I would never walk again, and returning to work where I received excellent performance evaluations and consistent merit increases -- I was devastated to have the rug pulled out from underneath me simply because Wal-Mart could ‘no longer accommodate my handicap needs.’ I am hopeful that this settlement will make Wal-Mart take a closer look at its policies and practices with respect to the employment of individuals with disabilities so that what happened to me will not happen to someone else.”

50 *EEOC v. Wal-Mart Stores, Inc.*, No. 06-1583 (8th Cir.).

51 “Wal-Mart settles suit with disabled applicant.” Associated Press via The Columbia Tribune. April 18, 2008.

52 Equal Employment Opportunity Commission News Release. “Wal-Mart to Pay \$250,000 for Disability Bias.” June 9, 2008.

53 *Ibid.*

54 Boston Employment Lawyer Blog. “Disability Discrimination Suit Against Wal-Mart Settled for \$250,000.” July 13, 2008.

55 Laura McCandlish. “Wal-Mart will pay \$250,000 to disabled woman it fired.” The Baltimore Sun. June 10, 2008.

56 *Ibid.*

57 Equal Employment Opportunity Commission News Release. “Wal-Mart to Pay \$250,000 for Disability Bias.” June 9, 2008.

58 *Ibid.*

Unfortunately, this has been an all-too-familiar refrain following the settlement of disability lawsuits. Through settlement and consent decree Wal-Mart has promised time and again to mend its ways and yet continues to face lawsuits for failing to recognize the needs and abilities of disabled employees and applicants.

Barbara Hacker

According to the EEOC complaint filed on behalf of Barbara Hacker, Wal-Mart has been engaging in unlawful conduct under the ADA in its Rockford, Illinois store since April 2006.⁵⁹ Hacker has a qualified disability – a seizure disorder known as epilepsy, which occurs when abnormal electrical activity in the brain causes an involuntary change in body movement or function, sensation, awareness, or behavior.⁶⁰ Wal-Mart management was aware of her condition when she was hired, and at the time she asked for the reasonable accommodation of being allowed to sit for a short time in a quiet place when she suffered one of her seizures.⁶¹

Wal-Mart initially allowed her request, but the accommodation was only temporary. In early 2006, Hacker suffered a seizure in a back room at the Rockford store, during which she suffered involuntary movement and uncontrollable speech outbursts.⁶² Her outburst included swearing, and Wal-Mart subsequently terminated her. After a thorough investigation the EEOC determined she was fired because of her disability.⁶³ The lawsuit was filed September 9, 2008, in U.S. district court in Illinois.

WAL-MART AND THE LEAVE OF ABSENCE TRICK

Since January 2004, at least 108 cases have been filed against Wal-Mart in federal district court on ADA-related claims.⁶⁴ At least 20 have been filed in 2008 alone. And these only reflect those cases that have been filed in federal court – it doesn't consider the total number of claims filed with the EEOC that may have been settled or resolved in some other way, or that were never brought because a plaintiff felt they couldn't afford to.

Based upon our analysis of these lawsuits, one tactic adopted by Wal-Mart managers is to require employees with disabilities to take a leave of absence when they request a reasonable accommodation. This trick is not restricted to disabled employees, as several with injuries and/or pregnancy issues in need of reasonable accommodations have also been found. A surprisingly large number of cases involving Wal-Mart managers requiring employees to take leaves of absence have surfaced in just the past few years, which correlates with the release of Wal-Mart's infamous "Chambers Memo" in 2005. There are slight variations depending on the particulars of the case (usually depending on

59 Equal Employment Opportunity Commission, 3:2008cv50202, Illinois, 2008.

60 U.S. Department of Health and Human Services, Center for Disease Control and Prevention. Online at: <http://www.cdc.gov/epilepsy/>.

61 Sean Driscoll. "Equal Employment Opportunity Commission files suit against Wal-Mart." Rockford Register Star. September 9, 2008.

62 Ibid.

63 Equal Employment Opportunity Commission, 3:2008cv50202, Illinois, 2008.

64 See Appendix B.

the individual's awareness of their rights), but the general pattern of each is eerily similar.

This is how it works. First, an employee requests an ADA-mandated "reasonable accommodation" in order to deal with a permanent, temporary, or pregnancy-related disability. Wal-Mart then requires the requesting employee to take a leave of absence while the company "acts" on the reasonable accommodation request. If the employee agrees to take a leave, either one of two things generally happens – the accommodation is granted, but there are no positions available for the employee upon returning from leave; or, the accommodation is denied, with management asserting the employee must be "100% capable of working for Wal-Mart" without limitations. If the employee is unable to meet the "100% capable...without limitations" requirement, the employee is terminated for failing to return from leave.

A sampling of these cases follows below. These cases are by no means exhaustive and, more importantly, don't represent the many cases that never reach the courts because an employee is unable or afraid to take on the costs and time of litigation.

It is also important to note that, in those cases involving pregnant employees, pregnancy itself is not considered a disability under the ADA. The ADA defines "disability" as a physical or mental impairment that substantially limits a major life activity, and pregnancy is not considered an impairment and therefore does not constitute a disability.⁶⁵ However, complications from pregnancy can be impairments, and in some circumstances a pregnant employee experiencing substantial complications limiting a major life activity are considered disabled, and therefore entitled to reasonable accommodations under the ADA.⁶⁶ For this reason, many cases involving pregnant employees also include claims under the ADA.

Case Examples

Kristin Falkman⁶⁷

A representative example of the "leave of absence" trick comes from a case in Conyers, Georgia, involving a young woman living with her mother and grandmother. Kristin Falkman suffers from mild mental retardation. She is substantially limited in more than one major life activity, including caring for herself, driving, speaking, learning, and performing manual tasks. Wal-Mart initially hired her as a part-time day stocker in the toy department with the accommodation of a part-time schedule allowing Falkman to work during daylight hours.

Also included in the hiring decision was the provision of a "job coach." A job coach assists in training an individual with mental disabilities to perform the essential functions of the job. According to the EEOC, an employer may be required to provide a temporary job coach to assist in training, as long as it is not an undue hardship.⁶⁸ As job coaches are considered a reasonable accommodation under the ADA, the managers were well aware of her disability and appeared willing to work with her.

65 EEOC Compliance Manual. "Definition of the Term Disability." (February 1, 2000). Online at: <http://www.eeoc.gov/policy/docs/902cm.html?PHPSESSID=18229160d47ce1a55cc3b61e376fd8f1>.

66 EEOC Office of Legal Counsel Letter: "ADA and Title VII – Disability Retirement Benefits." July 29, 2005.

67 *Falkman v Wal-Mart*, 1:2008cv00362, Georgia, 2008.

68 The U.S. Equal Employment Opportunity Commission. "Job Applicants and the Americans with Disabilities Act." Online at: <http://www.eeoc.gov/facts/jobapplicant.html>. Accessed July 31, 2008.

Once Kristin became comfortable with her job responsibilities, the job coach was no longer needed, and her initial supervisor commended Falkman for not only being able to do her job well, but for keeping the department upbeat and lively. Unfortunately for Falkman, the accommodations would not last. The store came under new management in late 2005, and the store manager decreed that workers could have no schedule limitations – and that Kristin needed to be able to work nine-hour shifts (rather than her previous maximum of five) and also be available to work nights. The manager claimed a modified or limited schedule was not a reasonable accommodation.⁶⁹

Falkman's mother, who was handling all of these arrangements on Kristin's behalf, attempted to negotiate with Wal-Mart's management to find an available position, which would allow Kristin to continue working during daylight hours. Upon doing so, Wal-Mart informed her that while the situation was being resolved, she would need to file a leave of absence form for Kristin. She was told that Kristin's employment would be terminated if she did not file the form. Falkman and her mother signed the leave of absence paperwork because they were informed it was an "appeal" requirement. According to Falkman's mother, in Kristin's absence a single mother was hired to fill her position and, per a need to be home with her child, only scheduled during the day. After a year and a half of appeals and the eventual backing of the EEOC (all the while Kristin was officially on a "voluntary" unpaid leave), Wal-Mart granted the part-time schedule, but claimed the only store capable of accommodating that limitation was located in the next county. The cab fare would cost more than she could earn so she had no option but to decline the offer. Falkman is currently suing Wal-Mart for employment discrimination under the ADA.⁷⁰

Joey DiMaggio⁷¹

Joey DiMaggio suffered from a mental disability known as Educable Mental Retardation, or EMR. In November 2004, DiMaggio was injured while working in the receiving department of his store in Hammond, Louisiana. Though he was treated the next day and put on "light duty" work, DiMaggio was told by Wal-Mart management to keep working and if another injury occurred, he would be terminated.

One week later, DiMaggio's treating physician diagnosed him with a bulging disc and ordered that he be permanently restricted to "light duty" work. He worked "light duty" for a while, but retaliation by store management came eventually. DiMaggio's supervisor advised him that if he wanted to keep his job, he had three options. The first option – demotion (with pay decrease) to cart collector – he was unable to do physically due to his injury. The second – coming back to work with no disability rating or work restrictions – directly violated his doctor's orders. His final option was to take a leave of absence while waiting for the restriction to be lifted.

Still suffering from his injury in April 2005, DiMaggio was referred by his doctor to take an MRI. The very next day, DiMaggio received a package at his house containing a "Leave of Absence" packet, and a registered letter from a Wal-Mart personnel manager informing him he had three days to either take the leave of absence or quit. Though he chose to take the leave and turned in the documentation, he was told "it was too late" and was considered "voluntarily terminated" from the

69 This is not true. The EEOC specifically states that a "modified or part time schedule" is a reasonable accommodation "absent undue hardship." See <http://www.eeoc.gov/facts/accommodation.html>.

70 *Falkman v Wal-Mart*, 1:2008cv00362, Georgia, 2008.

71 *DiMaggio v. Wal-Mart Stores, Inc.*, 2:2008-cv-00310, Louisiana, 2008.

date he received the letter.⁷² DiMaggio filed suit against Wal-Mart on May 7, 2007 for employment discrimination under the ADA. He was transferred from Louisiana's eastern district to its middle district in January 2008. His case is ongoing.

Annabelle Evans⁷³

Annabelle Evans was hired in the bakery department of a Wal-Mart in Layton, Utah. At the time she was hired, Evans did not know that she was pregnant. However, a doctor's appointment while she was a trainee in the bakery department revealed that she was, in fact, pregnant. Following that discovery, her doctor ordered her to lift no more than 25 lbs. for the duration of the pregnancy due to a previous miscarriage. Evans immediately notified her superiors of her pregnancy and the restrictions, and requested a transfer to a "light duty" position.

Wal-Mart, however, denied the transfer and her disability accommodation request and ordered her to take a leave of absence, despite the existence of numerous "light duty" positions. Evans refused to fill out the leave request, knowing that she was both capable of working throughout her pregnancy and that there were various light duty positions throughout the recently-opened store. Management informed her that each day she was not available to work in her current position in the bakery, she would be considered absent until fired. When Evans applied for unemployment, Wal-Mart informed the state she was on a Voluntary Leave of Absence per her pregnancy, preventing her from accessing any unemployment benefits.⁷⁴ The information reported to the Utah Dept. of Work Services was patently false. Evans filed suit in Utah district court on December 14, 2007, and her case is ongoing.

Barbara Flory⁷⁵

Barbara Flory had worked as a Wal-Mart greeter since 1994 and in Anchorage, Alaska, specifically since 2000. Flory is in her late 60s, and at the time of her lawsuit filing suffered from paralysis of the left side of her body as well as a herniated disc in her back and a pinched sciatic nerve. In February 2006, Ms. Flory made a request for reasonable accommodation asking that she be allowed to lean against a stool periodically, that she not be left alone to cover both the entrance and exit and that she not be required to push as many carts. Along with her request, she submitted medical documentation supporting her condition.

Flory received no response to her request, so in March she again submitted a request for reasonable accommodation. Her doctor also submitted information regarding her condition and physical needs. Again, Flory received no response, and while continuing to work she submitted a third request in June, which was denied a month later along with her previous requests. When Flory asked for reconsideration, she was told that she had to take a 30-day unpaid medical leave of absence while her reconsideration was processed. Subsequently, Flory was told that if she was unable to return to Wal-Mart without restrictions or if no position opened up to meet her requested accommodation, she would no longer be able to work for Wal-Mart. Flory filed her suit in Alaska district court on July 1, 2008, and her case is ongoing.

72 *DiMaggio v. Wal-Mart Stores, Inc.*, 2:2008cv00310, Louisiana, 2008.

73 *Evans v. Wal-Mart Stores et al*, 1:2007cv00168, Utah, 2008.

74 *Ibid.*

75 *Flory v. Wal-Mart Stores, Inc.*, 3:2008cv00153, Alaska, 2008.

Ugonda Hoze⁷⁶

Ugonda Hoze began working for Wal-Mart in 2001 as a warehouse stocker in Robert, Louisiana, where she was regularly in and out of refrigerated coolers and freezers. Prior to filing suit, her medical history included treatment for asthma and related breathing conditions that first began with her employment at Wal-Mart. Her treating physician subsequently determined that she was unable to work in low temperature environments. Not only was Wal-Mart aware of Hoze's medical condition, but according to her complaint the company regarded her as disabled and had excused her absence from work for those reasons in the past.

In June 2005, Hoze requested the reasonable accommodation of being transferred from working in low temperature areas, including submitting physician instructions against her working in temperature extremes or excessively dusty locations. Hoze's request was denied, and in addition, Wal-Mart refused to engage in an "interactive process" to discuss her disability. Instead, Wal-Mart forced Hoze onto medical leave and finally terminated her employment slightly more than one month after denying her accommodation. She believes she was fired because of her physical restrictions and Wal-Mart's desire to no longer accommodate her. Hoze filed suit against Wal-Mart on July 24, 2008, in Louisiana's eastern district and her case is ongoing.

Demetria Burton⁷⁷

Demetria Burton was employed at a Wal-Mart in West St. Paul, Minnesota, where she worked as a cashier. In November 2006, Burton was approximately eight months pregnant. While at work, she experienced leg and back pain and requested to be allowed to leave work early in order to go to her hospital for an evaluation. Wal-Mart initially refused, and did not let her leave until Burton's nurse called the store and informed them of the seriousness of the situation. Shortly after that incident, Burton made a request for a reasonable accommodation related to her pregnancy - the use of a stool while she worked as a cashier. Again, Wal-Mart initially refused, but management relented after Burton provided a doctor's note.

One week later, however, Wal-Mart removed Burton's ability to use the stool, citing store policy. She was informed that she either had to work minus the accommodation or take a leave of absence. In her complaint, Burton – an African-American – alleged that similarly situated white employees – both pregnant and non-pregnant – were either allowed the use of stool or were transferred to a position in which standing for 8-hour shifts was not a requirement. By being forced to take a medical leave of absence, Burton believes she was constructively discharged. Burton filed her suit on April 8, 2008, in Minnesota district court, and her case is ongoing.

James Oestreich⁷⁸

James Oestreich had been employed by Wal-Mart since 1995, and over time was promoted to Assistant Store Manager and ultimately transferred to a store in Gainesville, Florida in July 2004. In December 2004, Oestreich suffered from herniated discs which, among other things, limited his ability to sit, reach, and lift objects over a small amount of weight. In March of 2005, following a series of surgeries, Oestreich once again became capable of performing the essential job functions

76 *Hoze v. Wal-Mart Stores, Inc.*, 2:2008cv04015, Louisiana, 2008.

77 *Burton v. Wal-Mart Stores*, 08-cv-00168, Minnesota, 2008.

78 *Oestreich v. Wal-Mart Stores*, 1:2006cv00242, Florida, 2006.

of his position with reasonable accommodations. In March 2005, Oestreich requested those reasonable accommodations (including no heavy lifting) in order to return to work. Wal-Mart refused his requests. For the next seven months, Oestreich continued to request accommodations for his health conditions, and Wal-Mart repeatedly refused.

Ultimately, though he could perform the essential functions of his job with reasonable accommodations, Oestreich was forced to take a leave of absence and was prohibited from working for Wal-Mart from December 14, 2004, to October 22, 2005. On Oct. 22, 2005, Oestreich was allowed to return to work due to the involvement of his attorney. From then until his termination in January of 2006, however, he suffered a hostile work environment originating at the management level which included offensive jokes, harassment, and false accusations of stalking a co-worker. Two months after being allowed to return to work, he was fired for an incident involving an encounter with a suspected shoplifter. According to his complaint, Oestreich maintained that his conduct during the shoplifting incident complied with company guidelines and common practices. At the time of his firing, Oestreich had complained to management regarding the hostile work environment, but to no avail. Oestreich filed an amended complaint on June 19, 2007, in Florida's northern district, and his case is ongoing.

ADDITIONAL SUITS UNDER THE ADA: Consistent Denials of Reasonable Accommodation Requests

Patrick Brady

In 2002, Wal-Mart hired then 21-year old Patrick Brady, an American living with cerebral palsy, as an assistant in the pharmacy department of a supercenter in Centereach, New York.⁷⁹ Brady had already worked for two years in a similar capacity at The Village Chemist in Centereach, prior to joining Wal-Mart.⁸⁰ After one day in the pharmacy, however, the company reassigned him to other responsibilities -- including collecting garbage and shopping carts from the parking lot. Brady sued under the ADA, alleging that Wal-Mart personnel asked prohibited questions before hiring him, created a hostile work environment, and discriminated against him because of his disability. A Long Island jury found that Wal-Mart discriminated against Brady when he was transferred and asked impermissible pre-employment questions about his disability.

Brady's story is actually much more complicated than a simple reassignment, however. The allegations in Brady's complaint, which were ultimately found to be valid by a New York District Court judge, show a conscious refusal to extend fair treatment to a clearly qualified disabled employee. Brady was asked pre-employment disability related questions before ever being offered employment, a practice that Wal-Mart had agreed to do away with after its pre-employment "matrix" questionnaire was deemed discriminatory by the EEOC.⁸¹ Despite performing up to standards during

79 *Brady v. Wal-Mart Stores, Inc.*, 2:2003cv03843, New York (Complaint filed 8/6/2003, Amended Complaint filed 11/1/2004).

80 Rivka Bukowsky. "Man wins \$7.5M in Wal-Mart bias suit." New York Daily News. February 25, 2005.

81 *Brady v. Wal-Mart Stores, Inc.*, 2:2003cv03843 ¶17; "Comprehensive EEOC, Wal-Mart Settlement Resolves Disability Lawsuit." December 17, 2001. Online at: <http://www.eeoc.gov/press/12-17-01.html>.

his first Wal-Mart shift, Brady's supervisor refused to show him his schedule and would not follow-up with him to discuss his schedule in the future.⁸²

Finally, Brady was directed to come in for work for two weekend shifts while the pharmacy management "figured out what to do with him," and he spent the majority of these shifts stocking shelves away from customers instead of working in the pharmacy as he had been hired to do.⁸³ Ultimately, the determination was made that Brady would work in the parking lot, collecting garbage and rounding up shopping carts.⁸⁴ The reason? Wal-Mart didn't want a person with the type of disability Brady had associating regularly with customers.⁸⁵ In addition, the pharmacy manager was concerned with responsibility should Brady give a customer the wrong prescription – despite no problems in the past, it was believed Brady would make errors in the pharmacy because of his disability.⁸⁶ After being sent out to collect shopping carts, Brady's parents discussed the matter with store management. It was finally arranged for Brady to transfer to the food department to stock shelves.⁸⁷ The job's schedule conflicted with Brady's community college schedule, however, and when Wal-Mart refused to accommodate, Brady quit.⁸⁸

Brady was originally awarded \$7.5 million in damages, including \$5 million in punitive damages, in 2005.⁸⁹ His final judgment, per statutory and state law limits under the Americans with Disabilities Act and New York State law, was reduced to \$900,000.⁹⁰ Brady and his attorneys were also awarded \$644,000 in attorney fees.

In addition to the final award, another interesting side note came out of the Brady decision. The 2nd U.S. Circuit Court of Appeals held that an employer has a duty to reasonably accommodate an employee's disability where the disability is obvious, even if the employee did not request accommodation.⁹¹

Pamela Huber

Pam Huber worked for Wal-Mart as a dry grocery order filler, earning \$13 per hour at a distribution center in Clarksville, Arkansas.⁹² Huber suffered a permanent injury to her arm and hand in an on-the-job accident leaving her unable to perform the essential functions of her job.⁹³ As a reasonable accommodation for her disability, Huber asked that Wal-Mart reassign her to a vacant and equivalent router position at the Clarksville distribution center.⁹⁴ Instead of agreeing to reassignment as the reasonable accommodation, Wal-Mart told Huber that she could apply and compete for the position.

82 *Brady v. Wal-Mart Stores, Inc.*, 2:2003cv03843 ¶19-21.

83 *Brady v. Wal-Mart Stores, Inc.*, 2:2003cv03843 ¶123.

84 Mark Hamblett. "2nd Circuit Affirms Award Against Wal-Mart in Disability Bias Case." Law.com. July 8, 2008.

85 *Brady v. Wal-Mart Stores, Inc.*, 2:2003cv03843 ¶126.

86 *Brady v. Wal-Mart Stores, Inc.*, 2:2003cv03843 ¶129-30.

87 Mark Hamblett. "2nd Circuit Affirms Award Against Wal-Mart in Disability Bias Case." Law.com. July 8, 2008.

88 *Ibid.*

89 Liane Kufchock. "Wal-Mart Loses Appeal, Must Pay \$900,000 to Worker." Bloomberg. July 2, 2008.

90 *Ibid.*

91 *Brady v. Wal-Mart Stores, Inc.*, Docket No. 06-5486-cv.

92 *Huber v. Wal-Mart Stores, Inc.*, 486 F.3d 480 (8th Cir. 2007).

93 *Ibid.*

94 *Ibid.*

Wal-Mart forced Huber to go through what is referred to as its Associate Job Transfer Program (AJTP), which assigns all internal job applicants a score based on that employee's seniority, previous evaluations, and a skills assessment.⁹⁵ Wal-Mart gave the job to an individual with a higher AJTP score, even though Huber was found perfectly capable of performing the employment requirements, and Huber was sent to work at a different store as a janitor, making \$6.20 per hour.⁹⁶

Title I of the Americans with Disabilities Act requires employers to "make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability," and expressly lists "reassignment to a vacant position" as a "reasonable accommodation."⁹⁷ The EEOC has interpreted its own regulations so as to provide that "the employee does not need to be the best qualified individual for the position in order to obtain it as a reassignment."⁹⁸ Huber filed suit under the ADA, believing that she should have been reassigned to the open position as a reasonable accommodation.⁹⁹

In December 2007, Huber's case made it all the way to the U.S. Supreme Court, where the Court would have decided whether a disabled worker – one who is unable to carry out her present job functions because of her disability – should be given priority in assignment to a similar position she can perform, or only has to be given the opportunity to compete for that position.¹⁰⁰ The case was dismissed after both parties agreed to settle the dispute.

James Faust

Wal-Mart Store Manager Grace Gibson hired James Faust as a store greeter at a Wal-Mart in Calera, Alabama, in April of 2001. In 1993 Faust had a stroke, and suffered weakness in the right side of his body as a result.¹⁰¹ He also had a degenerative condition in his right ankle and foot that required the use of a motorized scooter for general mobility.¹⁰² Gibson was well aware of Faust's physical disabilities, permitting Faust to use his own motorized scooter in the performance of his job duties for the first three years of his employment.

In February of 2005, however, Gibson no longer allowed Faust the accommodation of leaving his scooter at the store overnight to recharge, and informed him that he could use the store's scooter instead (whenever it was not in use by customers) in order to get to the back of the store to clock in and out.¹⁰³ Once Gibson prevented Faust from keeping his scooter at the workplace, Faust promptly filed a claim with the EEOC.

After the EEOC charge was filed, Faust was prohibited from using Wal-Mart's scooter, and was instructed to use the store's (broken) wheelchairs. Faust continued to work at the store for approximately three more months, walking and sitting as much as possible, during which time none of the

95 *Huber v. Wal-mart Stores, Inc.*, Docket No. 07-480.

96 *Ibid.*

97 42 U.S.C. § 12111 et seq.

98 LawMemo.com. Online at: <http://www.lawmemo.com/supreme/case/Huber/>.

99 Christopher Rugaber. "Supreme Court will hear Wal-Mart disability suit." USA Today. December 7, 2007.

100 Lyle Denniston. "Granted case on disability rights dismissed." SCOTUSblog.com. January 14, 2008. Online at: <http://www.scotusblog.com/wp/court-seeks-advice-on-settling-worker-claims/>.

101 *Faust v. Wal-Mart Stores East, L.P.*, 2:2007cv01640 ¶7-8.

102 *Faust v. Wal-Mart Stores East, L.P.*, 2:2007cv01640 ¶11-12.

103 *Faust v. Wal-Mart Stores East, L.P.*, 2:2007cv01640 ¶14-16.

Wal-Mart wheelchairs were repaired.¹⁰⁴ Before long, the lack of accommodation and disregard for his disability proved overwhelming, causing Faust to resign and file a complaint in federal court.

The case is still in early discovery stages.

Auxiliary Case Examples

Kathleen Curns, at the age of 64, had worked for a Wal-Mart in New York for a decade when she was informed that her position – a district manager position she had been promoted to – was being eliminated due to internal restructuring.¹⁰⁵ Curns has a qualified hearing disability, and while participating in phone interviews for a newly created manager position was denied any sort of accommodation for her interview despite the knowledge of her disability and use of a hearing aid. Because of the turmoil and anxiety caused by her employment situation, Curns was diagnosed with work-related stress and depression. She was ordered to take a leave of absence, and while on leave was informed that if she did not accept a demotion to assistant manager (with a pay cut of \$30,000), her employment would be terminated.

Freada Trivett worked at a Tennessee Wal-Mart for nearly fifteen years, despite suffering from spinal stenosis and degenerative disc disease in her back.¹⁰⁶ Trivett had previously taken a leave of absence to have replacement surgery on her left knee, after which she returned to work at full capacity. Similarly, in mid-2003, Trivett needed to have replacement surgery on her right knee, and took a temporary leave. She was given work restrictions until October 2003, but was willing and able to get back to work with only the minor accommodation of having a chair to sit in her department. Instead, Wal-Mart extended her leave indefinitely, informing Trivett that if she could not return at 100%, there would be no position for her. She was ultimately terminated.

Max McConville worked as a cashier at a South Carolina Wal-Mart for nearly four years, until January 2004.¹⁰⁷ McConville had multiple sclerosis, a condition that impaired his major life functions. It is a potentially debilitating disease that affects the central nervous system. Even though he was hired as a cashier, in January 2004 he was instructed to push carts, and on January 14th he fell and injured himself. Because of his injuries, he was no longer able to push carts. When he went to seek medical attention, however, Wal-Mart management told that him he was going to have to be laid off because his condition was only going to get worse. He was not re-hired, nor was he considered for positions that would accommodate his condition.

Molly Beavers had worked at a Sam's Club in St. Petersburg, Florida, since 1985.¹⁰⁸ Beavers is an achondroplastic dwarf, a condition that affects the length of one's limbs, the spinal cord, and one's mental capacity. Her condition also caused the partial paralysis of her facial muscles and severe pain whenever she attempts to smile. She requested accommodations involving lighter lifting and carrying, the periodic use of a stool to sit, and relief from criticism regarding her facial impairment. Her request was denied, and ultimately Molly Beavers was fired. The reason: Sam's Club management claimed that she "did not smile enough at customers."

104 *Faust v. Wal-Mart Stores East, L.P.*, 2:2007cv01640 ¶19-24.

105 See Appendix A: *Curns et al v. Wal-Mart Stores, Inc.* Case No. 1:2006cv01336.

106 See Appendix A: *Trivett v. Wal-Mart Stores East, L.P.* Case No. 2:2006cv00270.

107 See Appendix A: *McConville v. Wal-Mart Stores, Inc.* Case No. 7:2004cv22133.

108 See Appendix A: *Beavers v. Sam's Club USA et al.* Case No. 8:2005cv01087.

LIMITATIONS OF THE ADA:

Statistics and Limitations

The nature of the most frequent disability complaints received by the EEOC:¹⁰⁹

- Discharge from work because of disability - 48%
- Employer failed to provide reasonable accommodation - 22%
- Disability prevented worker from getting job - 13%
- Harassed because of disability - 10%
- Unfairly disciplined because of disability - 7%
- Denied benefits because of disability - 4%

On at least four occasions the Supreme Court has significantly limited the potential reach of the ADA. Opinions in *Sutton v. United Airlines* (consideration of corrective and mitigating factors when determining if someone has a disability under the ADA), *Murphy v. United Parcel Service* (consideration of medicated states when determining if someone has a disability under the ADA), and *Albertson's, Inc. v. Kirkingburg* (determination of whether an individual's ability to compensate for an impairment must be considered a factor when determining if an individual is disabled under the ADA), the Supreme Court of the United States has issued rulings that have narrowed the interpretation of the concept of "disability" as that term is used in the Americans with Disabilities Act (ADA).¹¹⁰ In *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, the Court expressly declared what those prior decisions strongly suggested – that the elements of the definition of "disability" in the ADA "need to be interpreted strictly to create a demanding standard for qualifying as disabled."¹¹¹

In *Toyota Motor Manufacturing v. Williams*, the Court limited the definition of "disability" by ruling that the plaintiff, a factory worker suffering from carpal tunnel syndrome, was not disabled under the statute because her illness only affected her ability to work, not her ability to perform "activities that are of central importance to most people's daily lives." The unanimous court reasoned that "disability" should not be assessed by looking only at the plaintiff's ability to perform her job; rather, the plaintiff must present additional evidence of hardship outside of the work setting. The Court's opinion increases the burden that plaintiffs bear in proving they are disabled.

Wal-Mart Exploits the Limitations of the ADA

Wal-Mart has taken full advantage of the narrow definition of "disability" adopted by the Supreme Court. These current limitations and narrow scope of the ADA manifest themselves in cases like that of Stephen Orr. In 1999, the Supreme Court held that people who could control their conditions with instruments such as medication or insulin pumps may not be considered disabled.¹¹² That ruling would turn out to be a problem for Orr, a licensed pharmacist who also happens to be diabetic.

109 Data provided by Equal Employment Opportunity Commission. Also see: Liz Spayd. "The Disabilities Act, One Year Later" *The New York Times*, 29 July 1993, p. A23.

110 527 U.S. 471 (1999); 527 U.S. 516 (1999); 527 U.S. 555 (1999).

111 534 U.S. 184 (2002).

112 Joseph Shapiro. "Activists Fight to Rewrite Disabilities Act." *NPR All Things Considered*. October 22, 2007.

Orr, a pharmacist from Rapid City, South Dakota, told his story to the U.S. Senate Committee on Health, Education, Labor and Pensions on November 15, 2007. Orr has lived with Type 1 diabetes since 1986, a condition that requires him to administer insulin several times each day.¹¹³ Type 1 diabetes is generally diagnosed in children and young adults, and was previously known as juvenile diabetes.¹¹⁴ When an individual has Type 1 diabetes, the body does not produce insulin, a hormone needed to convert sugar, starches and other food into the energy needed for daily life.¹¹⁵

In 1997, Orr was working as a pharmacist in Rapid City when he was invited by a Wal-Mart district manager to apply for the manager position at the Wal-Mart pharmacy in Chadron, Nebraska.¹¹⁶ The Wal-Mart position would provide Orr with the opportunity to move back to Chadron, where his children, friends and family lived. Before accepting the position, however, Orr covered his bases – he informed the Wal-Mart district manager that in addition to his daily insulin injections, his diabetes management regimen would require him to have a regularly scheduled and uninterrupted lunch break so as to check his blood glucose level and eat.¹¹⁷ Once those terms were agreed to, Orr accepted the job and moved to Chadron.

Orr was on hand when the Chadron Wal-Mart Supercenter officially opened, in-store pharmacy included, in late January 1998. Less than six weeks later, however, the district manager who had hired Orr was replaced, and the conditions Orr worked under changed as well. Prior to the district management change, Orr was allowed to close the pharmacy for a half hour each day at lunch, since Orr was the only pharmacist at the Chadron location.¹¹⁸

After the change Orr, still the only on-duty pharmacist at the Chadron Wal-Mart store, was required to work his entire 10-hour work shift from 9 a.m.-7 p.m. without an uninterrupted lunch break.¹¹⁹ In fact, Orr was told to eat behind the pharmacy counter if and when store traffic slowed. Following the change, Orr's blood glucose levels dropped severely on multiple occasions, causing him to experience symptoms of hypoglycemia. Hypoglycemia can manifest itself with symptoms including dizziness or lightheadedness, confusion, difficulty speaking, and feeling anxious or weak.¹²⁰

Orr discussed his problems with Wal-Mart management, including presenting research which showed maintaining tight control over blood glucose levels has been established as the best way to avoid the long-term complications of diabetes.¹²¹ Wal-Mart refused to accommodate his medical condition, however, and Orr ultimately refused to follow the Wal-Mart policy of keeping the pharmacy open during his lunch break, as not having an uninterrupted lunch break would adversely affect the control of his diabetes.¹²² Orr was fired, and the new district manager was clear about why: because Orr was diabetic.¹²³

113 Stephen C. Orr. "Statement before the Committee on Health, Education, Labor and Pensions." U.S. Senate. November 15, 2007.

114 American Diabetes Association. Online at: <http://www.diabetes.org/type-1-diabetes.jsp>.

115 Ibid.

116 Joseph Shapiro. "Activists Fight to Rewrite Disabilities Act." NPR All Things Considered. October 22, 2007.

117 Stephen C. Orr. "Statement before the Committee on Health, Education, Labor and Pensions." U.S. Senate. November 15, 2007.

118 Ibid.

119 J. Daniel Marr. "Disability law doesn't cover diabetes." Nashua Telegraph. July 30, 2004.

120 National Diabetes Information Clearinghouse. Online at: <http://diabetes.niddk.nih.gov/dm/pubs/hypoglycemia/>.

121 Stephen C. Orr. "Statement before the Committee on Health, Education, Labor and Pensions." U.S. Senate. November 15, 2007.

122 J. Daniel Marr. "Disability law doesn't cover diabetes." Nashua Telegraph. July 30, 2004.

123 Joseph Shapiro. "Activists Fight to Rewrite Disabilities Act." NPR All Things Considered. October 22, 2007.

Amending the Americans with Disabilities Act: Businesses Lobby to Slow ADA Reform

The Americans with Disabilities Act of 1990 was intended to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.”¹²⁴ The ADA has helped millions of Americans with disabilities succeed in the workplace by making transportation, housing, buildings, and other elements of daily life more accessible to individuals with disabilities.¹²⁵

Just as other civil rights laws prohibit employers from basing decisions on characteristics such as race or sex, the ADA was intended to stop employers from making hiring and firing decisions based on disability. As stated earlier, however, several U.S. Supreme Court decisions since 1999 have narrowed the definition of disability to the point that people with serious conditions such as epilepsy, muscular dystrophy, cancer, diabetes, and cerebral palsy have been determined to not have impairments that meet the definition of disability under the ADA.¹²⁶

People refused employment or terminated because an employer mistakenly believes they cannot perform the job – or because the employer does not want “people like that” in the workplace – have been denied protection from employment discrimination due to these court decisions. This was not the intent of the ADA. The law was written to include broad coverage for people with disabilities and people regarded as disabled, yet this coverage has been narrowed by the Courts with a “strict and demanding standard,” virtually excluding entire classes of people originally viewed as objects of the law’s protections.¹²⁷ As certain members of Congress have made clear, it was never intended that individuals with disabilities working to ease their conditions would have their efforts held against them.¹²⁸ The ADA Amendments Act of 2008 (passed by the House on June 25, 2008 by a vote of 402-17, and currently being considered in the Senate) attempts to rectify this by:¹²⁹

- Clarifying the definition of disability, including what it means to be “substantially limited in a major life activity.”
- Prohibiting the consideration of measures that reduce or mitigate the impact of impairment – such as medication, prosthetics, and assistive technology – in determining whether an individual has a disability.
- Covering workers whose employers discriminate against them based on a perception that the worker is impaired, whether the worker has a disability or not.
- Making it clear that the Americans with Disabilities Act provides broad coverage to protect anyone who faces discrimination on the basis of disability.

124 House Committee on Education and Labor. Online at: <http://edlabor.house.gov/issues/adaaa.shtml>.

125 Ibid.

126 527 U.S. 471 (1999); 527 U.S. 516 (1999); 527 U.S. 555 (1999); 534 U.S. 184 (2002).

127 Rep. Steny Hoyer and Rep. Jim Sensenbrenner. “Amendments to ADA will return law to original intent.” Philadelphia Inquirer. July 25, 2008.

128 Ibid.

129 House Committee on Education and Labor Press Release. Online at: http://www.house.gov/apps/list/speech/edlabor_dem/rel062508d.html.

The ADA Amendments Act of 2008 is an amended version of the ADA Restoration Act of 2007, introduced and co-sponsored by over 200 House Democrats and Republicans seeking to reverse the Supreme Court's restrictive approach to the ADA and restore the ADA to Congress' original intent.¹³⁰ It is, however, a compromise between big business and disability groups, with both sides forced to make concessions. The 2007 ADA Restoration Act had large opposition on the business side, especially from the U.S. Chamber of Commerce, of which Wal-Mart is a dominant member.¹³¹ The U.S. Chamber strongly opposed the original bill, and urged members of Congress against co-sponsorship.¹³² A review of Wal-Mart's internal lobbying reports for Quarter 1 and Quarter 2 of 2008 both reflect that the company spent lobbying dollars on the ADA Restoration Act of 2007 – likely joining its business colleagues on the side “against.”¹³³

As a result of strong lobbying, the ADA Amendments Act of 2008, while it will do much to broaden the ADA's definition of disability, has been greatly weakened from the version proposed just one year ago. The compromise reached with big business that remains will not solve many of the problems currently facing disabled Americans, and will once again allow federal courts significant room to interpret the definition of “disability.”¹³⁴

CONCLUSION

Nearly two decades ago, the ADA was created to curb the instances of discrimination described throughout this paper. It is not a mistake that the EEOC has filed more ADA-related lawsuits against Wal-Mart than against any other corporation since the law went into effect. Wal-Mart has treated its responsibilities under the ADA as nothing more than a hindrance, and repeatedly been found in violation of the very consent decrees the company agreed to in order to settle its EEOC disputes. The EEOC has even had to take the extreme (and extremely rare) measure of asking a court to hold Wal-Mart in contempt for failing to live up to its agreed compliance.

Perhaps the most disturbing aspect of Wal-Mart's treatment of individuals with disabilities – beyond the EEOC lawsuits, the mountain of cases brought in federal court, and the millions of dollars in settlements and penalties Wal-Mart has paid – is the sense that Wal-Mart executives have put a plan in place to deal with these individuals. The “leave of absence” trick, as we've referred to it, appears too frequently to simply be dismissed as a string of coincidences.

When an employee with a disability requests an ADA-required reasonable accommodation, that accommodation should be met quickly and efficiently, so that employer and employee can move

130 John A. Lancaster, Executive Director of the National Council on Independent Living. “Letter to the Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties.” October 4, 2007.

131 Bazelon Center for Mental Health Law. “Comparison between the ADA Restoration Act and the ADA Amendments Act.” Online at: <http://www.bazelon.org/pdf/ADRA-ADAAAchart.pdf>.

132 R. Bruce Josten, Executive V.P. for Government Affairs – U.S. Chamber of Commerce. “Letter to Members of U.S. House of Representatives RE: ADA Restoration Act of 2007.” August 22, 2007.

133 Wal-Mart 2008 Federal Lobbying Reports.

134 John Parry, J.D., Director, Commission on Mental and Physical Disability Law. “ADA Amendments Act of 2008: A Glass Half Empty or Half Full?” American Bar Association. Online at: <http://www.abanet.org/disability/docs/ADA%20Amendments%20Act%20of%202008.pdf>.

forward in their employment relationship. Wal-Mart management, however, has made it a policy to repeatedly respond to such requests by forcing the requesting employee to take a leave of absence before ultimately forcing the employee to take a lesser position or leave the company altogether.

Wal-Mart Watch believes the cases mentioned in this report represent only a sample of Wal-Mart's "leave of absence" and reasonable accommodation issues. The company has been a frequent target of the EEOC, and has repeatedly violated promises to work to end disability discrimination. As shown in the recent case of Arkansas police officer Jimmy Singleton, Wal-Mart has even tried to keep disability benefits from individuals employed elsewhere because of the ramifications certain precedents might have on Wal-Mart.¹³⁵

Wal-Mart has a long list of employment-related concerns, including multiple wage and hour lawsuits where Wal-Mart management has been found to force employees to work through meal and rest breaks because of, among other reasons, frequent understaffing.¹³⁶ The Chambers memo revealed how the pressure to staff and run immense stores that are consistently understaffed have led Wal-Mart management to push for only the healthiest and most physically fit workers to fill store positions. Andrea Baran, EEOC attorney for Steven Bradley, summed it up:¹³⁷

"Working at Wal-Mart was a dream for Steve Bradley, and one that should have been attainable for him. Mr. Bradley saw Wal-Mart's ads on television showing disabled employees, and he thought it would be a great place to work. Unfortunately, Wal-Mart didn't train its managers to see that an applicant's ability, not his disability, is what matters."

135 Singleton was serving as a police officer in Pine Bluff, Arkansas, in 2003 when he was shot in the leg and received a blow to the leg while patting down a suspect. Singleton applied for disability benefits and Wal-Mart, along with Tyson Foods and the Arkansas Chamber of Commerce, each tendered friend-of-the-court briefs with the Arkansas Supreme Court arguing his claim should be denied. See: John Lyon. "Wal-Mart, Tyson oppose injured officer's claim." Northwest Arkansas Morning News. June 28, 2008.

136 Wal-Mart Watch. "Wal-Mart's Wage and Hour Violations: Saving Money on the Backs of Its Employees." July 2008. Online at: http://walmartwatch.com/img/blog/wage_and_hour.pdf.

137 Equal Employment Opportunity Commission News Release. "Wal-Mart to Pay \$300,000 to Rejected Job Applicant With Disability." April 17, 2008.

APPENDIX A:

WAL-MART CASE BRIEFS

Physical Impairment

Curns et al v. Wal-Mart Stores Inc.

Case Number: 1:2006cv01336

Complaint Filed: 11/2/2006

Summary:

Sixty-four year old Kathleen Curns worked at Wal-Mart between 1995 and 2005 in the state of New York. She was promoted throughout her tenure with Wal-Mart, from shoe department manager, to assistant manager, to district manager for shoes and jewelry. Curns earned outstanding employment reviews and established herself as an excellent district manager despite having a qualified hearing disability.

Curns was informed on May 12, 2005 that her position with Wal-Mart would be eliminated due to some internal restructuring, and that she would be forced to compete for the newly created position of fashion manager. Curns, confident in her years of experience and outstanding performance, applied for the new position. Wal-Mart's district manager at the time informed Curns that she would need to participate in a telephone interview to complete her application process. Her district manager knew that she used hearing aids and suffered from a hearing disability, but refused to provide Curns with any sort of accommodation for the interview. Curns performance in the interview was disadvantaged due to this lack of reasonable accommodation. Subsequently, Curns was informed that the position of fashion manager went to a candidate who 'interviewed better'. The district manager also told Curns that the successful candidate seemed much "more excited" about the position; an apparent jab at Curns' age.

Curns, undeterred, applied for several fashion manager positions outside of her district, to no avail. Curns notes that the majority of these positions were filled by younger, male employees who typically had significantly less experience with the position than she did. This apparent disrespect took its toll on Curns and in June of 2005 her doctor diagnosed her as suffering from work-related stress and depression. Curns was ordered to take a leave of absence from her work for medical treatment.

On July 11, 2005, during her medical leave of absence, Wal-Mart notified Curns that her employment with the company would be terminated if she did not accept a position as Assistant Manger. This position would not only require her to work longer hours on a more difficult schedule, but would also necessitate a \$30,000 pay cut. Curns was reluctant to take the position as this would be a significant demotion from her previous work. After Curns was forced into the assistant manager position to avoid facing termination, the positions of 'co-manager', for which she had applied and was clearly qualified, were given to male employees all under the age of 40.

Included in this suit is the case of Linda Zukaitis, age 55, an outstanding Wal-Mart employee from 1991 – 2005. Like Curns, Zukaitis was promoted to the position of district manager for shoes and jewelry in 1994. In 2005, she too learned that her position with the district would be eliminated for the newly created fashion manager position. Zukaitis applied for two of these new positions only to be informed

later that the successful candidates were younger male employees. Additionally, Zukaitis' applications for co-manager positions were denied in favor of younger male candidates.

Outcome:

This complaint was filed in the US District Court for the Northern District of New York on November 2, 2006. On April 33, 2008 a motion for Summary Judgment was filed. Most recently, as of June 9, 2008, an order was filed setting a hearing on the motion. This case is still pending.

Drown et al v. Sam's Club

Case Number: 3:2006cv00164

Complaint Filed: 5/3/2006

Summary:

Plaintiffs, Melba Drown (age 74) and Luella Wolfe (age 72), were hired at the Knox County, Tennessee Sam's Club in 1983 and 1988 respectively. At the time of the alleged discrimination, both were employed as people greeters at the Sam's Club. Plaintiffs, both having medical reasons, requested the use of stools during their shifts. Stools were allowed until April of 2005, when store manager Vic Victors no longer allowed their use. Other employees, who were significantly younger, were still allowed the use of stools during their shifts.

Drown and Wolfe were both forced to leave their jobs due to the lack of reasonable accommodation for their disabilities. Both plaintiffs alleged that they were treated less favorably than younger employees similarly situated.

Outcome:

This case was filed May 3, 2006 in the US District Court of the Eastern District of Tennessee at Knoxville. The plaintiff filed to dismiss the case on November 15, 2007, and the case appears to have been settled.

Wilson v. Wal-Mart Stores, Inc.

Case Number: 5:2007cv00394

Complaint Filed: 9/27/2007

Summary:

In Florida, plaintiff Sandra Wilson was employed with Wal-Mart in various positions from 1995 to June 26, 2006. Most recently, since May 6, 2002, Wilson had been employed as a people greeter. In February 2005, Wilson was diagnosed with vertigo and epilepsy. In early 2006, because of this condition, Wilson began suffering from weekly seizures, cold sweats, dizziness, fatigue, and general weakness. Wilson's condition limited her to standing for less than a half hour or walking for no more than fifteen minutes at a time without severe risk of losing her balance and falling. Wal-Mart was made aware of her disability in February of 2005. Wilson took FMLA leave due to her condition until June 13, 2006.

Upon returning to work at Wal-Mart, Wilson was informed of a new policy requiring greeters to stand in the middle of the foyer rather than near the wall as it was before. Wilson informed her supervisor that this practice was not compatible with her disability and requested reasonable accommodation

allowing her a stool to rest on while doing her job. Even after providing a doctor's note listing these restrictions, Ms. Wilson was told on June 24, 2006, she needed to sign an agreement stating that she would comply with the new policy. Wilson refused to sign, and was then asked to clock out and leave. With no written notification, Wilson's employment was terminated on June 26, 2006 after seven years of employment with Wal-Mart.

Wilson's ADA claim is based on the lack of reasonable accommodation for her disability.

Outcome:

This complaint was filed in the US District Court for the Middle District of Florida; Ocala Division on September 27, 2007. Most recently, a Case Management and Scheduling Order was filed on June 6, 2008. A trial date has not been set. This case is still pending.

Wheeler v. Wal-Mart Stores East, L.P. et al

Case Number: 3:2006cv05079

Complaint Filed: 7/24/2006

Summary:

Plaintiff Renee Wheeler was hired in 1995 as an optician at a Wal-Mart Vision Center in Missouri. Wheeler has Type I diabetes and wears an insulin pump to regulate her condition. In 1998, Wheeler's doctor gave her strict restrictions which required a set schedule for her meal times. Without this schedule Wheeler's blood sugar would become dangerously low and could potentially cause seizures. Wheeler's request for a steady schedule was accommodated for over six years. In October 2004, Wheeler had to take 12 weeks of medical leave during her pregnancy with her second child.

Between December of 2004 and January 14, 2005, Wheeler had contacted her Vision Center supervisor and Wal-Mart Human Resources several times to see if her schedule could again be regularly set as a reasonable accommodation for her disability. They informed her that even though she had a doctor's note, it 'meant nothing.' Wheeler made several requests for her scheduling needs to be accommodated and even requested to move to a position which would allow for the accommodation, to no avail. Wheeler's schedule was not set and fluctuated weekly.

As a result of the fluctuating schedule and eating times, on January 14, 2005 at about 3:00 p.m., Wheeler's blood sugar dropped and she suffered a seizure. Wheeler's manager did not contact 9-1-1, or any medical provider during the seizure. Wheeler was taken to a back room to sit until she regained consciousness again. At around 4:00 p.m. a family member was finally called to come and pick up Wheeler from the Vision Center. Wheeler suffered medical complications from the lack of reasonable accommodation for her disability at Wal-Mart. She returned to work on January 17, 2005, and gave notice that due to the fluctuating schedules and the unwillingness by Wal-Mart to accommodate her needs, that she would be leaving her position. Wheeler's last day was January 20, 2005.

Wheeler's ADA claim is based on the lack of reasonable accommodation for her disability and the resulting constructive discharge from her.

Outcome:

This complaint was filed in the US District Court for the Western District of Missouri on July 24, 2006. A Notice of Voluntary Dismissal was filed by the Plaintiff on July 26, 2007.

Trivett v. Wal-Mart Stores East, L.P.

Case Number: 2:2006cv00270

Complaint Filed: 12/11/2006

Summary:

Plaintiff Freada Trivett worked for a Tennessee Wal-Mart continuously from February of 1990 to April 29, 2004. Trivett suffers from Level II spondyloisthesis in her lower back, degenerative disc disease, and spinal stenosis. On April 29, 2003, Trivett requested a medical leave of absence through May, 16, 2003, due to pain in her right knee. On May 14, 2003, Trivett requested and was assigned an extension of her leave for six months allowing her to have knee replacement surgery and be treated for her arthritis. A similar sequence of events occurred previously in Trivett's employment when she had her left knee replaced.

In September 2003, Trivett notified Wal-Mart that her doctor had given her work restrictions through October 9, 2003. These restrictions included six hour work days, a chair in the work area, and no prolonged standing. Trivett filed a reasonable accommodation request with Wal-Mart after her knee surgery. On October 17, 2003, she was informed that Wal-Mart had no positions which were able to accommodate her needs. Trivett's medical leave was extended by one month, and then renewed in November through March of 2004. During this period, Trivett was ready and willing to work as a cashier, greeter, or fitting room attendant with the minimal accommodation of a chair in the work area. Instead, Trivett was told in December of 2003 by a Wal-Mart supervisor that if she could not come back at 100% then there would be no jobs available to her. In February of 2004 her medical leave was extended for an unspecified period of time. From October of 2003 through April of 2004, Wal-Mart did not offer Trivett any position which would be able to accommodate her disability needs.

On April 29, 2004, Trivett was terminated by Wal-Mart without reasonable accommodation for her disability. Trivett's claim for relief under the ADA law derived from the rejected reasonable accommodation request and subsequent termination of her employment as a result.

Outcome:

This complaint was filed in the US District Court for the Eastern District of Tennessee on December 11, 2006. Mediation was scheduled for September 17, 2007. The case was settled in mediation and subsequently dismissed on October 31, 2007.

McConville v. Wal-Mart Stores Inc.

Case Number: 7:2004cv22133

Complaint Filed: 9/7/2004

Summary:

Plaintiff Max McConville was employed by Wal-Mart as a cashier in South Carolina from August of

2000 until January 14, 2004. McConville suffered from multiple sclerosis, which impaired his major life functions. McConville was initially hired and employed as a cashier, but was told that he must also push carts for several weeks.

As a result of his extra assigned duties, on January 14, 2004, McConville fell and injured himself. Due to his fall, McConville was no longer able to push carts. When he informed his supervisor that he was unable to perform the task any longer and that he needed to seek medical attention, his supervisor informed him that he was going to have to "lay him off" because his injury would only get worse. The supervisor informed McConville that he would be sure to note that the plaintiff was "rehireable." McConville had not previously been on the list of employees to be laid off.

McConville contacted his Wal-Mart district manager in an effort to get his job back. McConville was reassured that the district manager would try and get him his job back, and would let him know by January 19, 2004, whether he would be re-hired. McConville did not receive any further communication from the district manager.

McConville's ADA claim was based on Wal-Mart's disregard for providing reasonable accommodation to him on the job, and the subsequent retaliation by terminating that resulted from the unmet needs.

Outcome:

This complaint was filed in the US District Court for the District of South Carolina; Spartanburg Division on September 7, 2004. This case was dismissed as stipulated to by both Plaintiff and Defendant on July 18, 2005.

Beavers v. Sam's Club USA et al

Case Number: 8:2005cv01087

Complaint Filed: 6/10/2005

Summary:

Plaintiff Molly Beavers is a resident of St. Petersburg, Florida. Beavers was employed at the local Sam's Club since 1985 and had worked as a food demonstrator for several years. Beavers has a medical disability severely limiting major life functions including performing manual tasks, thinking, reasoning, cognitive skills, walking, standing, reaching, lifting, caring, smiling, interacting with others, and caring for herself. Ms. Beavers is an achondroplastic dwarf who stands 4 foot 6 inches tall. This condition is visible to any reasonable person as it affects the length of one's limbs, the spinal cord, and one's mental capacity. Beaver's condition has caused the partial paralysis of her face and severe pain whenever she attempts to smile. Beavers held her position with Sam's Club for several years before sustaining an injury on the job that amplified her spinal disability. Sam's Club was aware of her condition.

Beavers made a request for accommodations involving lighter lifting & carrying, use of a stool, and relief from criticism regarding her facial impairment. Sam's Club made no good faith effort to accommodate Beavers, and subsequently fired her. Beavers was terminated in December of 2003, when management claimed that she "did not smile enough at customers."

Beavers' ADA claim was based on the on-going discrimination and subsequent retaliation by her employer for requesting reasonable disability accommodations at her place of work.

Outcome:

This complaint was filed in the US District Court for Middle District of Florida; Tampa Division on June 10, 2005. This case was dismissed on June 19, 2006 after parties reportedly reached a settlement.

Mental Impairment

Byrd v. Wal-Mart Stores Inc.

Case Number: 5:2007cv00459

Complaint Filed: 11/19/2007

Summary:

Plaintiff Victor Byrd has a learning disability and impairment causing him to be unable to use a computer. From May of 2006 through June of 2006, Mr. Byrd attempted to complete an online application for Wal-Mart employment. Wal-Mart's application process requires potential employees to fill out the application on a computer kiosk located within the store. No other options for applying were offered to Byrd. Instead, Byrd requested assistance in filling out the application from the store manager who insisted she did not have time to help him. Byrd made several Wal-Mart employees aware of his disability. Byrd then visited the personnel office requesting reasonable accommodations in filling out the application. No accommodation was provided. Despite being qualified for various positions at Wal-Mart which were advertised during this period, Byrd was denied accommodation and employment.

Byrd's ADA claim is based on the exclusionary nature of Wal-Mart's online-only application process, to people with disabilities.

Outcome:

This complaint was filed in the US District Court for the Eastern District of North Carolina; Western Division, on November 19, 2007. Most recently, an Order approving the Protective Order was filed on May, 15, 2008. A trial date has not been set. This case is still pending.

Collins v. Wal-Mart Stores Inc.

Case Number: 3:2007cv01780

Complaint Filed: 11/30/2007

Summary:

Plaintiff Paul Collins worked for Wal-Mart from May 16, 2001 until August 31, 2006 in Wood Village, Oregon. Collins has a disability affecting his developmental and mental capacity. Collins' condition affects his ability to perform major life functions including caring for him and others, and has left him functionally illiterate. Wal-Mart at the time of hiring Collins was aware of his mental impairment. Mrs. Joy Collins was present during his orientation at the store, and told his supervisors that she would be assisting him with the paperwork because of his impairment. Mrs. Collins frequently

visited the store and reminded supervisors that Mr. Collins needed accommodations for his condition. Specifically, Mr. Collins would get very confused when he was directed by two different supervisors for his assignments.

From approximately 2001 to May of 2006, Collins worked as a Wal-Mart greeter in Wood Village. Collins' reviews consistently rated him as meeting expectations. In June of 2006, Collins was assigned to work in the maintenance department. Here, he would be supervised by a co-manager and two other supervisors. On July 6, 2006, he was instructed to sign a new 'job description'. The first page of this document was for a people greeter while the signature line was for a day maintenance associate. Due to his disability, Collins was unable to adequately read and evaluate the job description.

Collins received conflicting tasks from his supervisors in the maintenance department. At one point the supervisor advised Collins that windows were to be washed frequently, while at another, Collins was told only to wash windows when he had the opportunity. On July 18, 2006, Collins was specifically directed to not wash windows. He was then criticized by another supervisor for not doing his work and was suspended from his job. Collins' suspension required him to write a letter explaining why he should be able to keep his job. He was unable to write the letter due to his known disability.

Mrs. Collins went to the co-director of the store to re-explain Mr. Collins' limitations, and his need for reasonable accommodation. She was told that another employee could be hired to do his work in half the time. Mrs. Collins informed the co-director that Mr. Collins had done everything that was asked of him within his line of duties. Mr. Collins was terminated on August 31, 2006.

Collins' ADA claim is based on the lack of reasonable accommodation during the course of his duties, subsequent suspension, and termination.

Outcome:

This complaint was filed in the US District Court for the District of Oregon on November 30, 2007. Most recently, a Scheduling Notice was filed on April 22, 2008. A trial date has not been set. This case is still pending.

Pregnancy

Evans v. Wal-Mart Stores et al

Case Number: 1:2007cv00168

Complaint Filed: 12/14/2007

Summary:

Plaintiff Anabelle Evans was hired at a Utah Wal-Mart on December 4, 2006, as a trainee in the bakery department. On December 8, 2006, she learned from her doctor that she had become pregnant. Evans did not know prior to her employment that she was pregnant. This was Evans' second pregnancy, the first ending in a miscarriage. After diagnosing the pregnancy, Evans' doctor informed her that she should not lift more than 25 pounds during pregnancy and the next six weeks thereafter. Evans immediately informed her supervisor and requested to be assigned to light duty.

Despite her doctor's orders, Wal-Mart refused to assign Evans to light duty, or even transfer her to a position not involving heavy lifting. Upon this denial, Evans was then asked to sign a voluntary leave of absence form. Evans refused to sign the form since she was willing and able to work with reasonable accommodation for her lifting capacity. As a result, Wal-Mart threatened to log Evans' missed time in the bakery as absences if she did not show up for work.

Evans applied for unemployment through the State of Utah. She was denied this benefit because Wal-Mart reported her as having taken a voluntary leave of absence. According to Evans, this information was false. Wal-Mart terminated Evans' employment for not performing the duties of her job. From the time she was diagnosed as being pregnant to the time she was terminated, "light duty" jobs were available at Wal-Mart to which Evans could have been assigned.

Evans ADA claim is based on the lack of reasonable accommodation for her temporary disability through discriminatory conduct and termination.

Outcome:

This complaint was filed in the US District Court for the District of Utah, Northern Division on December 14, 2007. Most recently a scheduling order was filed on June 12, 2008. A jury trial is set to begin on January 19, 2010. This case is still pending.

Burton v. Wal-Mart Stores Inc.

Case Number: 0:2008cv00984

Complaint Filed: 4/8/2008

Summary:

Plaintiff Demetria Burton was an employee of a Wal-Mart in West St. Paul, Minnesota, in 2006 when she first experienced a severe pregnancy related disability. Burton requested leave to seek medical assistance for her sudden and severe leg and back pain. Burton's request was initially denied, and only later approved after Burton's nurse contacted Wal-Mart to stress the urgency of the situation.

On December 1, 2006, Burton requested reasonable accommodations from Wal-Mart for her temporary disability, including the use of a stool while acting as a cashier. Unlike other employees, Burton's request was only accommodated once she provided a doctor's note. However, on December 10, 2006, management informed her that she would no longer be allowed use of the stool, citing company policy as the reason for the change. Burton was told by Wal-Mart management that her only options were to stand or take a medical leave of absence. Burton noted that other employees similarly situated were offered positions with lighter standing duties. Burton was constructively terminated from Wal-Mart. She mitigated her damages by finding new work, but she was unable to match the salary she was being paid by Wal-Mart at the time of her termination.

Burton's ADA claim is based on lack of reasonable accommodation for her temporary disability.

Outcome:

This complaint was filed in the US District Court for the District of Minnesota on April 8, 2008. Most recently a Rule 26f report was filed on June 12, 2008. A jury trial is set to begin on June 19, 2009. This case is still pending.

APPENDIX B: WAL-MART ADA CASE LIST

2008 cases are shaded. Asterisk denotes ongoing case.

State	Location	Case Number	Filed Date
Alabama: 4			
Faust v. Wal-Mart Stores East, L.P.*	alndce	2:2007cv01640	9/7/2007
Fikes v. Wal-Mart, Inc.	alsdce	1:2007cv00339	5/14/2007
Kelly v. Wal-Mart, Inc	alndce	2:2007cv00871	5/8/2007
Littleton v. Wal-Mart Store, Inc.	alndce	2:2004cv00066	1/12/2004
Alaska: 1			
Flory v. Wal-Mart Stores, Inc.*	akdce	3:2008cv00153	7/1/2008
Arkansas: 2			
Huber v. Wal-Mart Stores, Inc.	arwdce	2:2004cv02145	7/26/2007
Zeller v. Wal-Mart Stores, Inc.*	arwdce	5:2008cv05021	1/24/2008
California: 11			
Coloma v. Wal-Mart Stores, Inc. et al	casdce	3:2006cv02799	12/27/2006
Daubert v. Wal-Mart	caedce	1:2006cv00590	5/17/2006
Derrigo v. Wal-Mart Stores, Inc.	caedce	2:2008cv01507	6/27/2008
Dodson v. Wal-Mart Stores, Inc. et al	caedce	2:2005cv01943	9/26/2005
Garay v. Wal-Mart Stores, Inc.*	cacdce	5:2008cv00433	4/1/2008
Hardin v. Wal-Mart Stores, Inc.*	caedce	1:2008cv00617	5/2/2008
Jackson v. Wal-Mart Stores, Inc.*	candce	5:2008cv01670	3/27/2008
Kiter v. Wal-Mart Stores, Inc.	caedce	2:2008cv01147	5/23/2008
Nason-Chick v. Wal-Mart Stores, Inc. et al*	cacdce	5:2008cv00515	4/16/2008
Perales v. Wal-Mart Stores, Inc.	caedce	1:2005cv01462	11/16/2005
Whitehurst et al v. Wal-Mart Stores, Inc. et al	cacdce	2:2005cv00475	1/20/2005
Colorado: 4			
Bunting v. Wal-Mart*	codce	1:2007cv01610	7/31/2007
Mason-Lott v. Wal-Mart Stores, Inc.	codce	1:2004cv02580	12/15/2004
Medina v. Wal-Mart Stores, Inc.	codce	1:2007cv02331	11/6/2007
Powell v. Wal-Mart	codce	1:2006cv00828	5/1/2006

Connecticut: 2			
Bemis v. Wal-Mart Stores East Inc.*	ctdce	3:2008cv00099	1/22/2008
Parmenter v. Wal-Mart Stores East, LP et al	ctdce	3:2006cv01585	10/10/2006
Delaware: 1			
Spencer v. Wal-Mart Stores, Inc.	dedce	1:2003cv00104	3/22/2005
Florida: 14			
Barnhart v. Wal-Mart Stores, Inc.	flmdce	8:2004cv02452	11/10/2004
Beavers v. Sam's Club et al	flmdce	8:2005cv01087	6/10/2005
Chernoff v. Wal-Mart Stores, Inc.	flsdce	0:2005cv61709	11/1/2005
D'Agneica v. Wal-Mart Stores, Inc. et al*	flmdce	8:2006cv02113	11/9/2006
Dillon v. Wal-Mart Stores, Inc.	flmdce	6:2004cv01847	12/20/2004
Fowler v. Sam's East, Inc.*	flmdce	5:2008cv00064	2/12/2008
Francis v. Wal-Mart Stores, Inc.	flmdce	8:2005cv00444	3/7/2005
Howard v. Wal-Mart Stores East, L.P.*	flndce	4:2008cv00158	4/2/2008
Hussain v. Wal-Mart Stores, Inc.	flsdce	2:2005cv14366	12/7/2005
Hutto v. Wal-Mart Stores Inc.	flndce	3:2005cv00007	1/11/2005
Marcoleta-Lima v. Wal-Mart Stores, Inc.	flsdce	1:2007cv22291	8/31/2007
Oestreich v. Wal-Mart Stores East L.P.*	flndce	1:2006cv00242	11/29/2006
Powers v. Wal-Mart Stores East, L.P.*	flmdce	6:2008cv00729	5/5/2008
Wilson v. Wal-Mart Stores, Inc. et al*	flmdce	5:2007cv00394	9/27/2007
Georgia: 4			
Autry v. Wal-Mart	gandce	1:2007cv03091	12/13/2007
Davis v. Wal-Mart Stores East, L.P.	gandce	3:2006cv00032	4/6/2006
Falkman v. Wal-Mart*	gandce	1:2008cv00362	1/31/2008
Moore v. Wal-Mart Stores, Inc.	gandce	1:2007cv00615	3/15/2007
Illinois: 3			
Bulfer v. Wal-Mart Stores, Inc.*	ilcdce	1:2007cv01217	8/15/2007
Janega v. Wal-Mart Corporation et al*	ilndc	1:2008cv03422	6/13/2008
Kwazdran v. Wal-Mart	ilndc	3:2004cv50117	3/1/2004
Indiana: 6			
Dubois v. Wal-Mart Stores Inc.	inndce	1:2006cv00044	2/16/2006
Goff v. Wal-Mart	insdce	4:2006cv00044	3/20/2006
Knapp v. Sam's Club/Wal-Mart Assoc. Inc.*	inndce	1:2007cv00199	8/7/2007

Noel v. Wal-Mart Stores East, L.P.*	insdce	1:2007cv00305	3/6/2007
Nofzinger v. Wal-Mart Stores East L.P.	inndce	1:2005cv00214	6/27/2005
Simon v. Wal-Mart Stores East L.P. et al	inndce	1:2005cv00039	2/1/2005
Iowa: 4			
Berger v. Wal-Mart Stores Inc.	iasdce	4:2005cv00563	10/13/2005
Bhardwaj v. Wal-Mart Supercenter*	iasdce	4:2007cv00243	6/7/2007
Harper v. Wal-Mart Disability Plan, et al	iasdce	3:2006cv00091	9/6/2006
Mc Elroy v. Wal-Mart Stores, Inc. et al*	iaandce	1:2008cv00090	7/15/2008
Kansas: 1			
Golston v. Wal-Mart Stores, Inc.	ksdce	6:2007cv01189	7/6/2007
Louisiana: 6			
Carpenter v. Wal-Mart Stores, Inc.	lawdce	1:2006cv00906	5/26/2006
DiMaggio v. Wal-Mart Stores, Inc.	lamdce	3:2007cv00285	5/7/2007
Durio v. Wal-Mart Stores, Inc. et al	lawdce	6:2004cv00380	2/4/2004
Harvey v. Wal-Mart Louisiana L.L.C.*	lawdce	3:2006cv02389	12/21/2006
Hoze v. Wal-Mart Stores Inc.*	laedce	2:2008cv04015	7/24/2008
Lacarbo v. Wal-Mart Stores, Inc.	laedce	2:2005cv00097	1/12/2005
Massachusetts: 1			
Lillie v. Wal-Mart Stores, Inc.	madce	3:2005cv30236	11/2/2005
Michigan: 3			
Daoust v. Wal-Mart Stores, Incorporated	miedce	1:2006cv11788	4/14/2006
Emery v. Wal-Mart Associates, Inc. et al	miedce	2:2006cv12685	6/19/2006
Watz et al v. Wal-Mart Stores, Inc.*	miedce	2:2008cv10376	1/25/2008
Minnesota: 1			
Manthe v. Sam's West, Inc. et al*	mndce	0:2007cv02191	5/4/2007
Mississippi: 2			
Coleman v. Wal-Mart Stores, Inc.	msndce	4:2006cv00034	2/27/2006
Sanford v. Wal-Mart Stores, Inc.*	mssdce	3:2007cv00742	12/19/2007
Missouri: 2			
Calhoun v. Wal-Mart	moedce	4:2006cv00683	4/24/2006
Wheeler v. Wal-Mart Stores East, L.P.	mowdce	3:2006cv05079	7/24/2006

New Jersey: 2			
Nemeth v. Wal-Mart Stores East, L.P.*	njdce	1:2007cv05881	12/10/2007
Williams v. Wal-Mart Stores, Inc.	njdce	2:2005cv00739	2/4/2005
New York: 4			
Borsilli v. Wal-Mart Stores East, L.P.*	nysdce	7:2008cv05135	6/4/2008
Carille v. Wal-Mart Stores, Inc.	nyndce	1:2005cv00063	1/20/2005
Curns et al v. Wal-Mart Stores, Inc.	nyndce	1:2006cv01336	11/2/2006
Runza v. Wal-Mart Stores, Inc.*	nyedce	2:2007cv04146	10/4/2007
North Carolina: 2			
Byrd v. Wal-Mart Stores, Inc.*	ncedce	5:2007cv00459	11/19/2007
Maynard v. Wal-Mart Stores East, L.P.	ncedce	5:2006cv00303	8/2/2006
Ohio: 2			
Godby v. Wal-Mart Stores, Inc.	ohndce	1:2005cv01968	8/10/2005
Howard v. Wal-Mart Stores, Inc.	ohsdce	3:2005cv00250	7/14/2005
Oklahoma: 3			
Biddie v. Wal-Mart Associates, Inc.	okwdce	5:2008cv00029	1/10/2008
Carroll v. Wal-Mart	okwdce	5:2007cv01137	10/10/2007
Jackson v. Wal-Mart Stores, Inc. et al*	okwdce	5:2007cv00850	7/31/2007
Oregon: 5			
Austin v. Wal-Mart Stores, Inc.*	ordce	3:2007cv01306	8/31/2007
Collins v. Wal-Mart Stores, Inc.	ordce	3:2007cv01780	11/30/2007
English v. Wal-Mart Stores, Inc.	ordce	3:2005cv01089	7/13/2005
Light v. Wal-Mart et al	ordce	6:2007cv06233	8/29/2007
Mendez v. Wal-Mart Stores, Inc.	ordce	2:2007cv00027	1/8/2007
Pennsylvania: 5			
Busler v. Wal-Mart	paedce	2:2005cv02166	5/6/2005
Farrell v. Wal-Mart Stores, Inc.	paedce	2:2005cv02168	5/5/2005
King v. Wal-Mart Stores East, L.P. et al*	paedce	2:2007cv04331	10/17/2007
Lennox v. Wal-Mart Stores East, L.P.*	pawdce	2:2006cv00877	7/5/2006
Vess v. Wal-Mart, Inc.	paedce	2:2007cv01878	5/9/2007
South Carolina: 2			
McConville v. Wal-Mart Stores, Inc.	scdce	7:2004cv22133	9/7/2004
Rhett v. Wal-Mart Stores East L.P.	scdce	9:2006cv02405	8/28/2006

Tennessee: 5			
Dobson v. Wal-Mart Stores, Inc.	tnedce	4:2005cv00018	3/9/2005
Drown et al v. Sam's Club	tnedce	3:2006cv00164	5/3/2006
Jones v. Wal-Mart Stores East, L.P. et al*	tnedce	3:2007cv00461	12/17/2007
Trivett v. Wal-Mart Stores East, L.P.	tnedce	2:2006cv00270	12/11/2006
Rogers v. Wal-Mart et al*	tnedce	1:2006cv00084	4/7/2006
Texas: 4			
Baker v. Wal-Mart Stores, Inc.	txndce	3:2007cv01211	7/6/2007
Guerra v. Wal-Mart Stores, Inc. et al	txsdce	1:2005cv00242	9/1/2005
Jarrett v. Wal-Mart Stores	txedce	2:2004cv00151	4/16/2004
Vlasek v. Wal-Mart Stores, Inc. et al*	txsdce	4:2007cv00386	1/29/2007
Utah: 1			
Evans v. Wal-Mart Stores et al	utndce	1:2007cv00168	12/14/2007
Washington: 1			
Disney et al v. Wal-Mart Stores, Inc.*	waedce	2:2008cv03050	8/4/2008

APPENDIX C:

Disability Rights Groups and Government Agencies

American Civil Liberties Union: <http://www.aclu.org/disability/index.html>

ADAWatch.org: <http://www.adawatch.org/>

American Bar Association – Commission on Mental and Physical Disability Law:
<http://www.abanet.org/disability/>

Bazelon Center for Mental Health Law:
<http://www.bazelon.org/issues/disabilityrights/index.htm>

Center for an Accessible Society: <http://www.accessiblesociety.org/topics/ada/index.htm>

Council for Disability Rights: <http://www.disabilityrights.org/index.htm>

Disability Rights Advocacy Group: <http://www.draginc.com/>

Disability Rights Advocates: <http://www.drlegal.org/>

Disability Rights Education and Defense Fund: <http://www.dredf.org/>

Disability Rights Legal Center: <http://www.disabilityrightslegalcenter.org/>

National Disability Rights Network: <http://www.napas.org/>

National Organization on Disability: <http://www.nod.org/>

Washington Lawyers' Committee:
http://www.washlaw.org/projects/disability_rights/default.htm

Equal Employment Opportunity Commission: <http://www.eeoc.gov/>

National Council on Disability (independent federal agency): <http://www.ncd.gov/>

United States Department of Justice – Civil Rights Division:
<http://www.usdoj.gov/crt/drs/drshome.htm>



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Wal-Mart Watch aggressively tells a new, more truthful Wal-Mart story. We bridge the gap between ordinary citizens and community organizations concerned about Wal-Mart's unchecked growth and negative impact on our society. We challenge Wal-Mart to embrace its moral responsibility as the nation's biggest and most important corporation.

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