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WILLIAM R. TAMAYO, SBN 084965 (CA)
JONATHAN T. PECK, SB 12303 (VA)
MARCIA L. MITCHELL, SBN 18122 (WA)
DAVID F. OFFEN-BROWN, SBN 063321 (CA)
U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105-1260
Telephone: (415) 625-5652
Facsimile: (415) 625-5657
David.Offen-Brown@eeoc.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

WAL-MART STORES, INC. ,

Defendant.

CASE NO. 2:11-CV-03327-JAM-CKD
CONSENT DECREE

I. INTRODUCTION

Plaintiff Equal Employment Opportunity Commission (EEOC) filed this action pursuant to Title I of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 *et seq.* (ADA), and Title I of the Civil Rights Act of 1991. The EEOC alleged that Defendant Wal-Mart Stores, Inc. (Wal-Mart or Defendant) denied Charging Party David Gallo reasonable accommodation of his disability and discharged him because he had a disability and in retaliation for his request for and complaint about denial of a reasonable accommodation for his disability. Wal-Mart has denied the EEOC’s claims.

In the interest of resolving this matter without further litigation, and as a result of having engaged in comprehensive settlement negotiations, the EEOC and Wal-Mart (the

1 Parties) have agreed to resolve this matter by entry of this Decree. This resolution is not an
2 admission of liability by Wal-Mart, nor is it a finding on the allegations made in the EEOC's
3 complaint.

4 The Court has reviewed the terms of this Consent Decree in light of the pleadings, the
5 record herein, and the applicable law, and now approves the Consent Decree.

6 Therefore, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as
7 follows:

8 **II. GENERAL PROVISIONS**

9 1. This Court has jurisdiction over the subject matter and the parties to this action and
10 retains jurisdiction over this Decree during its term.

11 2. This Consent Decree constitutes a full resolution of the EEOC's claims against
12 Wal-Mart in this action.

13 3. This Consent Decree shall become effective upon its entry by the Court.

14 4. This Consent Decree is final and binding upon the Parties, their successors and
15 assigns.

16 5. The Parties shall bear their own costs and attorney fees in this action.

17 **III. GENERAL INJUNCTIVE RELIEF**

18 Wal-Mart and its current officers, agents, employees, and all persons in active concert
19 or participation with them are enjoined to comply with all requirements of the Americans
20 with Disabilities Act, including the reasonable accommodation and retaliation provisions.

21 **IV. SPECIFIC INJUNCTIVE RELIEF**

22 Defendant will, for the duration of this Consent Decree, maintain its policies which
23 contain the following elements:

24 1. **Policy Against Disability Discrimination and Reasonable Accommodation**

25 (i) **Prohibition against Disability Discrimination and Requirement to Provide**
26 **Reasonable Accommodations:** A provision which states that discrimination because of
27 disability is illegal and that employees must be afforded reasonable accommodations of their
28

1 disabilities. A provision which states that retaliation is illegal. A description of
2 Respondent's internal procedures under which employees may seek reasonable
3 accommodation of a disability.

4 (ii) **Designation of Complaint Contacts:** A provision which provides employees
5 avenues for making complaints of discrimination or retaliation, including, but not limited to
6 appropriate contact information for individuals or departments to whom complaints can be
7 directed, whether verbally or in writing.

8 (iii) **Procedure for Anonymous Complaints:** A provision that employees can make
9 anonymous complaint of discrimination.

10 (iv) **Procedure for Investigating Complaints of Discrimination:** Procedures for
11 promptly and thoroughly investigating complaints of discrimination.

12 (v) **Manager Responsibility:** Manager's obligation to promptly report complaints of
13 discrimination to the appropriate level of management for investigation.

14 Nothing in this Section prevents Wal-Mart from revising its policies, provided that the
15 revised policies are consistent with the above elements or conform with any changes in the
16 law.

17 **2. Training**

18 Defendant will conduct one training regarding disability discrimination and
19 reasonable accommodations, and the prohibition of retaliation, for its salaried managers
20 working at the Placerville Store at the time of the training, in addition to the following
21 individuals:

22 (i) George Allen

23 (ii) Jennifer Frick

24 (iii) Edward Barvosa

25 Within 14 days after the training, Defendant will provide to the EEOC with (1) a copy of the
26 course syllabus and all other materials utilized for the training; (2) name(s) and credentials of
27 the trainer(s) and (3) the sign-in sheets documenting attendance.
28

1 The training will be two hours.

2 **3. Posting and other Notices to Employees**

3 Defendant shall maintain the current notice, a copy of which is attached as Exhibit 1,
4 on Wal-Mart's THE WIRE.

5 **V. MONETARY RELIEF**

6 1. Within 30 days of the effective date of the Consent Decree, and provided that
7 counsel for Wal-Mart receives from the EEOC the following forms: (1) federal W-4, (2)
8 federal W-9, and (3) California DE-4, Defendant shall pay to the successor of Charging Party
9 David Gallo the amount of \$ 40,000.00, less all applicable deductions and withholdings.
10 This amount shall be allocated as follows: \$20,000.00 shall be allocated as wages, for which
11 Wal-Mart shall issue a W-2 form, and \$20,000.00 shall be allocated as compensatory
12 damages, for which Wal-Mart shall issue a 1099 form. The amount above is to be paid in
13 complete compromise of all disputed issues arising out of the Complaint filed in this lawsuit.
14 The check(s) will be made payable to Mr. Gallo's successor designated by the EEOC and
15 sent to David F. Offen-Brown, EEOC, 350 The Embarcadero, Suite 500, San Francisco,
16 California 94105-1260.

17 **VI. REPORTING**

18 Wal-Mart's detailed reporting of accommodation requests pursuant to a settlement with the
19 EEOC in another matter (executed by Wal-Mart December 6, 2012) satisfies the reporting
20 needed for this Consent Decree.

21 **VII. RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT DECREE**

22 1. The duration of this Consent Decree shall be two (2) years from the date of entry
23 of the Decree, provided that Defendant has complied substantially with the terms of this
24 Consent Decree. Defendant shall be deemed to have complied substantially if the Court has
25 not made any finding or orders during the term of the Consent Decree that the Defendant has
26 failed to comply with any terms of this Consent Decree.

1 2. This Court shall retain jurisdiction over this matter and the Parties for the purpose
2 of enforcing compliance with the Consent Decree, including issuing such orders as may be
3 required to effectuate its purposes.

4 3. If any provision of this Consent Decree is found to be unenforceable by a court of
5 competent jurisdiction, only the specific provision in question shall be affected and the other
6 enforceable provisions shall remain in full force and effect.

7 4. Any documents or information required to be submitted by Defendant to the
8 EEOC under the terms of this Consent Decree shall be sent to REGIONAL ATTORNEY,
9 EEOC, 350 The Embarcadero, Suite 500, San Francisco, California 94105-1260, or to an
10 address later designated by the EEOC in writing sent to counsel for Wal-Mart: Adelmise R.
11 Warner, Morgan, Lewis & Bockius LLP, One Market Street, Spear Street Tower, San
12 Francisco, CA 94611.

13
14 Dated: 7/22/2013

By: /s/
KIM SENTOVICH
SENIOR VICE PRESIDENT
PACIFIC DIVISION
WAL-MART STORES, INC.

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19 Dated: 7/25/2013

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
WILLIAM R. TAMAYO
JONATHAN T. PECK
MARCIA L. MITCHELL
DAVID F. OFFEN-BROWN

//s// David F. Offen-Brown
DAVID F. OFFEN-BROWN

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24 U. S. EQUAL EMPLOYMENT
25 OPPORTUNITY COMMISSION
26 Attorneys for Plaintiff
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Dated: 7/22/2013

MORGAN, LEWIS & BOCKIUS LLP
ERIC MECKLEY
ADELMISE ROSEMÉ WARNER

By: /s/ Adelmise Rosemé Warner
Eric Meckley
Adelmise Rosemé Warner
Attorneys for Defendant Wal-Mart Stores, Inc.

IT IS SO ORDERED.

Dated: 7/29/2013

/s/ John A. Mendez
UNITED STATES DISTRICT COURT JUDGE