

### CHARGE OF DISCRIMINATION

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

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

FEPA  
 EEOC

### Massachusetts Commission Against Discrimination (MCAD)

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Mrs. Jacqueline A. Cote**

Home Phone (Incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

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

Name

**Walmart**

No. Employees, Members

Phone No. (Include Area Code)

**508-677-3775**

Street Address

**262 Swansea Mall Dr.**

City, State and ZIP Code

**Swansea, MA 02777**

Name

**Wal-Mart Stores Inc.**

No. Employees, Members

**2 million**

Phone No. (Include Area Code)

**479-273-4000**

Street Address

**702 SW 8<sup>th</sup> Street**

City, State and ZIP Code

**Bentonville, AR 72716**

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

RACE     COLOR     SEX     RELIGION     NATIONAL ORIGIN  
 RETALIATION     AGE     DISABILITY     GENETIC INFORMATION  
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**2008**

**December 31, 2013**

CONTINUING ACTION

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

- I am an associate at a Walmart store in Swansea, MA. I have been employed by Wal-Mart Stores, Inc. ("Walmart") from April 1999 to the present in various stores and locations throughout Maine and Massachusetts and have performed my job in a satisfactory manner at all times.
- To the best of my knowledge, Walmart is a multi-national retail company. It is the world's largest public corporation, the biggest private employer in the world with over two million employees, the largest retailer in the world, and the largest private employer in the United States. Walmart's corporate headquarters are located in Bentonville, Arkansas.
- As part of my compensation, I receive employee health insurance benefits. To the best of my knowledge, those benefits are self-insured through Walmart and administered through Blue Cross Blue Shield. Walmart pays the majority of the cost of employees' health insurance benefits. Walmart provides qualified employees with the option of obtaining health insurance coverage for their spouses and similarly pays the majority of the cost of spouses' health insurance benefits.
- Prior to January 2014, Walmart had a national policy, pattern, and practice of not providing employees who had spouses of the same sex health insurance coverage for their spouses.
- On May 22, 2004, I married my spouse Diana ("Dee") Smithson in Provincetown, Massachusetts. At all times, my marriage to Dee has been lawful and recognized by the Commonwealth of Massachusetts. We live together in New Bedford, Massachusetts.

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

NOTARY - When necessary for State and Local Agency Requirements

*Notarization on back of page*

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

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

SIGNATURE OF COMPLAINANT

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

*9/18/2014*

Date

*[Handwritten Signature]*

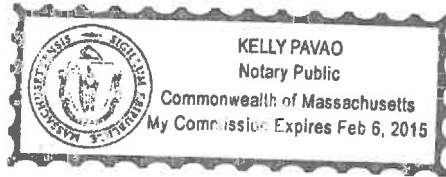
Charging Party Signature

**ACKNOWLEDGMENT**

On this day 18 of September 2014, before me, the undersigned notary public, personally appeared Jacqueline A. Cote and produced satisfactory evidence of identification, which were

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Kelly Pavao



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*State or local Agency, if any*

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

6. Dee also worked at Walmart as a claims associate until approximately 2008, when she left her employment to stay at home to be the primary caregiver for my mother, who was suffering from dementia and living with us. After Dee's COBRA coverage ran out, she purchased individual insurance coverage from Mid-West Life Ins. Co. of Tennessee.
7. Beginning as early as 2008 or 2009, I regularly attempted to enroll Dee in my health insurance plan for spousal health insurance benefits during Walmart's open enrollment period that occurs once a year. This became especially important to us after Dee began purchasing individual health insurance coverage, which was quite expensive. Each such time I would enter Dee's sex as female into the online computer system, I immediately would receive a notification that I could not proceed further with my request and that I should call the home office.
8. When I called Walmart's home office to request that Dee be added to my health insurance as my spouse, I would be told on the phone by a Walmart representative that Walmart did not offer health insurance coverage to same-sex spouses, even though I am otherwise qualified to receive those benefits.
9. In August 2012, Dee was diagnosed with ovarian cancer. As a result of her diagnosis, Dee had to undergo numerous and expensive treatments, including chemotherapy. She was also hospitalized at one time due to side effects of the chemotherapy.
10. Dee was also hospitalized in November 2013 due to a pulmonary embolism.
11. While Dee initially had health insurance through her individual coverage at the time of her diagnosis, which she and I had paid for, she lost that coverage in October 2012, and thereafter Dee was unable to obtain other health insurance.
12. Given Dee's extreme vulnerability of having ovarian cancer without medical insurance, in October 2012, I again attempted to enroll Dee for spousal health insurance coverage during Walmart's open enrollment and was again denied the ability to add Dee to my health insurance coverage as a spouse. Dee remained uninsured until January 1, 2014, due to Walmart's discriminatory national policy, pattern, and practice of not providing employees with spouses of the same sex health insurance coverage for their spouses.
13. Walmart refused to provide spousal health insurance coverage for my spouse because I am a woman married to another woman, even though Walmart would have provided such coverage if I were a man married to a woman.
14. Walmart refused to provide spousal health insurance coverage for my spouse because my spouse is a woman, even though Walmart would have provided such coverage if my spouse were a man.
15. Walmart refused to provide spousal health insurance benefits because of Walmart's sex-based stereotypes and stereotyping that a woman should only be married to a man and not a woman.
16. Walmart refused to provide spousal health insurance coverage for my spouse because of our same-sex sexual orientation.
17. As a result of Walmart's national policy, pattern, and practice of not providing employees with spouses of the same sex health insurance coverage for their spouses, Dee and I have suffered significant economic and non-economic harm, including negative financial consequences, health issues, emotional and physical harm, as well as pain and suffering. In particular, because of Walmart's discriminatory policy we have incurred approximately \$100,000 of uninsured, medical expenses. Owing that amount of debt has not only been enormous stressful to both of us, it has also complicated and harmed Dee's health, wellbeing, and recovery.
18. I believe that I have been discriminated against because of my sex in violation of the Massachusetts' employment discrimination law, Mass. Gen. Laws ch. 151B, and Title VII of the federal Civil Rights Act of 1964.
19. I am filing this charge on behalf of myself and a class of all other employees of Walmart nationwide who were married to someone of the same sex and were subjected to Walmart's national policy, pattern, and practice of not providing employees with spouses of the same sex health insurance coverage for their spouses prior to January 1, 2014, including female employees of Walmart married to women and male employees of Walmart married to men.

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

NOTARY - When necessary for State and Local Agency Requirements

*Notarization on back of page*

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

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

SIGNATURE OF COMPLAINANT

*9/18/2014* 



Date

Charging Party Signature

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

**ACKNOWLEDGMENT**

On this day 18 of September, 2014, before me, the  
undersigned notary public, personally appeared  
Jacqueline A. Cote  
and proved to me through satisfactory evidence of identification, which were  
[redacted]  
to be the person whose name is signed on the preceding or attached document,  
and acknowledged to me that he/she signed it voluntarily for its stated purpose.  
Kelly Pavao

