



**Littler CaseSmart®**  
**Program Mailing Address:**

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Suite 800  
Kansas City, MO 64108

October 1, 2024

**VIA EMAIL ([LORETTA.GARCIA@MONTGOMERYCOUNTYMD.GOV](mailto:LORETTA.GARCIA@MONTGOMERYCOUNTYMD.GOV))**

Loretta J. Garcia, Manager of Enforcement Programs  
Montgomery County Office of Human Rights  
21 Maryland Avenue  
Suite 330  
Rockville, MD 20850

**Re: Wolanyo E. Bansah v. Sam's East, Inc.**  
**MCGHRO Case No.: E-06846**  
**EEOC Charge No.: 531-2020-00159**

Dear Ms. Garcia:

As you may be aware, this firm represents Respondent Sam's East, Inc. ("Sam's Club") in the above-referenced Complaint of Discrimination filed by Complainant Wolanyo Bansah. We submit this letter requesting that the Montgomery County Office of Human Rights reconsider its probable cause determination regarding this matter, subject to the provisions of the footnotes in Sam's Club's initial Position Statement and other correspondence with the County.<sup>1</sup> Sam's Club requests reconsideration and reversal of the County's probable cause finding because the determination ignored overwhelming evidence supporting Sam's Club's position that it did not discriminate against Ms. Bansah (a current associate) based on her disability, that it did not fail to accommodate her disability, and that it did not retaliate against her.

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<sup>1</sup> The information and supporting documentation submitted herewith, and that which may be submitted hereafter, are strictly confidential. Such information and documentation shall not be used for any purpose other than the resolution of the current Complaint and shall not be disseminated to any person without Sam's Club's prior written approval. See 42 U.S.C. §§ 2000e-5(b), 2000e-8(e); 29 C.F.R. §§ 1601.22, 1601.26; 56 Fed. Reg. 10847; and applicable state and local laws. In addition, this response is based upon our understanding of the facts and the information reviewed thus far. Although there has not been an opportunity for formal discovery or a complete formal investigation, this response is submitted for the purpose of aiding the Commission in its investigation and facilitating the informal resolution of this matter. This response, while believed to be accurate, does not constitute an affidavit or a binding statement of Sam's Club's legal position, nor is it intended to be used as evidence of any kind in any administrative or court proceeding in connection with Complainant's allegations. Because additional facts likely would be uncovered through discovery or following a full investigation, Sam's Club in no way waives its right to present new or additional information. Moreover, by responding to the Complaint, Sam's Club does not waive, and hereby preserves, any and all substantive and procedural defenses that may exist to the Complaint and Complainant's allegations. Sam's Club requests that any efforts to contact its current Managers be directed through its counsel.

Although the County correctly found that Sam's Club did not retaliate against Ms. Bansah after she complained to the CEO, the determination ignored substantial evidence of Sam's Club's efforts to engage in the interactive process to accommodate Ms. Bansah and the restrictions her doctor put in place for her. Ms. Bansah's doctor stated that she could not work in the freezer or cooler areas at all. See excerpt from Determination Exhibit 10, Signed Medical Release, dated July 16, 2019:

Accommodation Recommendations: Please list suggested ways associate can be accommodated.	
Option 1:	PT cannot work in cold / freezer / cooler area
Option 2:	
SECTION 3 - HEALTH CARE PROVIDER INFORMATION	

Accordingly, Ms. Bansah's doctor placed a restriction on her job duties that prevented her from being in the freezer or cooler areas at all, which is an essential job function for her position (demonstrated by both Determination Exhibit 6, Merchandiser Job Description, and the fact that the freezers and coolers frequently need the most attention from Merchandisers). Sedgwick<sup>2</sup> did in fact speak with Ms. Bansah as part of the interactive process multiple times, and even suggested an alternative accommodation of Ms. Bansah wearing insulated gloves while working in the freezer and cooler during a July 15, 2019 phone call (during the phone call, Ms. Bansah indicated she was requesting an accommodation because her hands would get numb in the cold areas). However, Ms. Bansah simply responded that she did not know if that accommodation would help and she did not know how long she would need the accommodation. As a result of Ms. Bansah's doctor's medical certification and Ms. Bansah rejecting other alternative accommodations, and because Sam's Club could not excuse Ms. Bansah's essential job functions, Sam's Club offered her the alternative accommodation of reassignment. This was not done for any discriminatory or retaliatory reason, but instead was done to accommodate Ms. Bansah's disability which had placed severe limitations on her ability to complete her essential job functions, and Sam's Club did not want to jeopardize her health or safety.

Eventually, Ms. Bansah's doctor completed another medical certification and return to work certification, received by Sedgwick on February 18, 2020, which cleared Ms. Bansah to return to work with the restriction of wearing a jacket when working in or near the freezer and cooler areas. See Exhibit 1, attached hereto. Upon receiving this updated paperwork, which lifted her doctor's earlier restriction prohibiting from Ms. Bansah from being in the freezers or coolers at all, Sedgwick approved Ms. Bansah for an accommodation of wearing a jacket in the freezers and coolers. See Exhibit 2, attached hereto. Ms. Bansah remains employed by Sam's Club to this day, and the company has not taken any adverse employment actions against her as she alleges.

As demonstrated above, Sam's Club did not discriminate or retaliate against Ms. Bansah. Because the weight of the evidence indisputably demonstrates that Sam's Club placed

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<sup>2</sup> Sedgwick Claims Management Services, Inc., Sam's Club's accommodation and leave administrator.

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Ms. Bansah on a reassignment leave of absence for the legitimate, nondiscriminatory, nonretaliatory reason of accommodating her disability, Sam's Club respectfully requests that the County vacate its probable cause determination and issue a finding of no probable cause.

Sincerely,

LITTLER MENDELSON, P.C.

*/s/ G. Bethany Ingle*

G. Bethany Ingle  
703.286.3135 direct  
gingle@littler.com

GBI/kp

cc: Kara Jassy  
Christopher Benton  
Robert McGarrah, Attorney for Complainant (rmcgarrah@mdlab.org)  
Dave Wachtel, Attorney for Complainant (dwachtel@tristerross.com)

# Exhibit 1

TIME RECEIVED  
February 18, 2020 4:24:20 PM EST

REMOTE CSID  
3018692360

DURATION  
183

PAGES  
5

STATUS  
Received

02/18/2020 05:21PM 3018692360

CAPITAL NEUROCARE

PAGE 01/05

*claim # 302-046-1791-6001*



## COMPLETE YOUR FORMS | MEDICAL INFORMATION

Return all documents to send back in one of three ways:  
upload: mysedirect | email: WalmartCS@mednet.com | fax: 855-354-4472 or 855-750-3270

Associate name: Wolanyo Bansah  
Case number: 302044179160001IFN

Associate WIN: [REDACTED]

### PART B: AMOUNT OF LEAVE NEEDED

5. Will the associate be required to be away from work for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ☐ No ☒ Yes

If so, provide an estimate of the continuous dates the associate will be away from work:  
Start date: *01/30/20* End date: *02/13/20 unknown*

6. Will the associate need to attend follow-up treatment appointments because of the associate's medical condition? ☐ No ☒ Yes

If so, are the treatments medically necessary? ☐ No ☒ Yes

Estimate the treatment schedule, if any. Include the dates of any scheduled appointments and the time required for each appointment, including any travel time and any recovery period. **Please provide a numerical response** - For example: 1 appointment every 3 months, and requires 1 day of recovery per appointment:

Frequency: 1 appointment(s) every      week(s) or 3 month(s)

Duration:      hour(s) or      day(s) per appointment

7. Will the condition cause episodic flare-ups periodically preventing the associate from performing his/her job functions? ☐ No ☒ Yes

Is it medically necessary for the associate to be absent from work during the flare-ups? ☐ No ☒ Yes

If so, explain: *Seizures drug*

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of time the patient may need to be away over the next 6 months. **Please provide a numerical response** - For example: 1 episode every 3 months lasting 1-2 days:

Frequency: 1 time(s) per      week(s) or 3 month(s)

Duration:      hour(s) or      day(s) per episode

8. Will the associate need to work part-time or on a reduced schedule because of the associate's medical condition? ☒ No ☐ Yes

If so, is the reduced number of hours of work medically necessary? ☐ No ☐ Yes

Estimate the part-time or reduced work schedule the associate needs, if any:

     hour(s) per day;      day(s) per week from      through     

ADDITIONAL INFORMATION: Please reference the question number for any related information you provide

Signature of healthcare provider

Date

*2/14/20*

MED 3 OF 3

Walmart/Bansah, Request for Reconsideration

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claim #1-302-044-1791-6801



## COMPLETE YOUR FORMS | MEDICAL INFORMATION

Return all documents to Sedgwick in one of three ways:  
 upload: mysedgwick.com | email: WalmartForm@sedgwick.com | fax: 859-264-4372 or 859-240-3270

Associate name: Wolanyo Bansah  
 Case number: 302044179160001IFN

Associate WIN: [REDACTED]

## PART A: MEDICAL FACTS

1. Approximate date condition commenced: 2010

Probable duration of condition: \_\_\_\_\_

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

☐ No ☒ Yes If so, dates of admission: Date admitted: 2013 Date released: \_\_\_\_\_

Date(s) you treated the patient for condition (including scheduled follow up appointments or procedures):

12/2/2015 - 2/14/20

Will the patient need to have treatment visits at least twice per year due to the condition? ☐ No ☒ YesWas medication, other than over-the-counter medication, prescribed? ☐ No ☒ YesWas the patient referred to any other healthcare provider(s) for evaluation or treatment (e.g., physical therapist)? ☐ No ☒ Yes

If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ☐ No ☒ Yes If so, expected delivery date: \_\_\_\_\_

3. For the following question, use the job information provided by the employer. If the employer fails to provide a list of the associate's essential functions or a job description, answer these questions based upon the associate's own description of his/her job functions.

Is the associate unable to perform any of his/her job functions due to the condition? ☒ No ☐ Yes

If so, identify the job functions the associate is unable to perform:

freezer  
 unable to stand near cooler without jacking  
 Needs jack

4. Describe other relevant medical facts, if any, related to the condition for which the associate seeks leave (such as medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

NOTE: In California, Connecticut and Wisconsin, do not disclose the underlying diagnosis unless you have received consent from the patient.

MED 2 OF 3

Claim # 302-044-1791-6001



# PLAN YOUR RETURN | RETURN TO WORK CERTIFICATION

Return all documents to Sedgwick in one of three ways:  
upload: mysedgwick.com | email: WalmartForms@sedgwick.com | fax: 855-264-1372

Associate name: **Wolanyo Bansah**

Associate WIN: [REDACTED]

Case number: 302044179160001IFN

If you are returning from medical leave due to your own serious health condition, you must provide a written release. You will not be permitted to return to work without a release. If you are returning with restrictions, the release information can assist us in determining if an accommodation can be provided. Email or fax it to Sedgwick as soon as possible before your return to work. Provide a copy to your manager/HR representative on your first day back.

## SECTION A - TO BE COMPLETED BY ASSOCIATE (please print)

Leave start date: **July 2019**

Facility number: **Sam Club**

Expected return to work date: **2/14/20**

Preferred method of contact (optional)

City/state: **Gaithersburg**

Home phone number:

Cell number:

Email:

Associate's signature:

Job title:

Date:

## SECTION B (MEDICAL RELEASE) - TO BE COMPLETED BY HEALTHCARE PROVIDER

I certify that the associate named above is medically able to resume work on: **2/14/20** (MM/DD/YYYY)

This associate can return to work (check one): ☐ With no restrictions ☒ With restrictions (please describe below)

Activity	Frequency, activity level, limitations, etc.	Duration (circle P if permanent)
Bending	<b>None</b>	to or P
Breathing	<b>None</b>	to or P
Climbing	<b>None</b>	to or P
Communicating	<b>None</b>	to or P
Grasping	<b>None</b>	to or P
Hearing	<b>None</b>	to or P
Lifting/carrying (lbs) (check one) 0-9 10 15 20 25 50 60 Other (provide details below)	<b>None</b>	to or P
Pulling		to or P
Reaching (check one) Overhead Below knee Other (provide details below)		to or P
Seeing		to or P
Standing		to or P
Twisting		to or P
Walking		to or P

Other restrictions or details: If you need additional room, please ensure any attached pages are signed and dated.

Accommodation(s): If returning with restriction(s), please list suggested ways the associate can be accommodated.

Option 1: **Ticket for work near freezer/cooler**

Option 2:

Name of healthcare provider:

Mailing address: **6003, front side**

Phone: **301 869 2360**

Healthcare provider signature: **Feb 10**

Date: **2/14/20**

Fax: **301 869 2360**

Email:

## SECTION C - MANAGER/HUMAN RESOURCES REPRESENTATIVE INSTRUCTIONS WHEN RESTRICTIONS ARE NOTED

If restrictions are noted on the release, return the associate with a job adjustment, if possible. See the Accommodation in Employment policy for more information on the job adjustment program. If unable to provide a job adjustment, contact Sedgwick at 855-489-1600 to discuss next steps. [NOTE: A job adjustment does not include creating a job, removing or reducing an essential function, transferring a portion of a job to another associate, light duty or temporary alternative duty.]

Name:

Signature:

Title:

Date:



Walmart/Bansah, Request for Reconsideration

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# **Exhibit 2**



Sedgwick Claims Management Services, Inc.  
PO Box 14028  
Lexington, KY 40512



Phone: 1 (855) 489-1600  
Fax: 1 (859) 280-3264

February 21, 2020

Wolanyo E. Bansah  
13231Country Ridge Dr L  
Germantown, MD 20874

**Re: Accommodation Request – Approval Determination – Dress Code**  
**Claim Number: C083027652-0001-01**

Dear Wolanyo:

Thank you for giving the Accommodation Service Center (ASC) an opportunity to review your request.

A determination has been made to allow you to wear a jacket while being around the freezer/cooler area as an exception to the Work Place Standards Dress Code policy and applicable business unit guideline requirements.

The granting of your request is intended for the purpose of reasonably accommodating your medical restriction. It is not meant to excuse any other requirement. Thus, this accommodation is granted contingent upon your agreement to observe all approval stipulations, ensure workplace safety, and maintain an appearance of professionalism. In addition, if a Dress Code accommodation has been granted, all apparel and footwear must be properly fitted, clean, and in good condition. Lastly, although your request has been approved you are still expected to perform the essential job functions of your job as a Merchandising, including but not limited to maintaining your area of responsibility, meeting customer service requirements, and achieving successful performance standards.

As part of this approval, all of your clothing should fit properly, be clean, pressed and in good condition. Your clothes should not have holes, fraying, stains, or discoloration to ensure that safety and/or professional appearance requirements are met.

Please be advised that the company reserves the right to revisit this approval at any time to review the effectiveness of the accommodation, its impact on business operations and co-workers, and/or if there is a material change in either your situation or in the business needs of the facility. You are encouraged to let your management or ASC know, if after a reasonable amount of time passes, you feel the provided accommodation is not effectively working.

**If you are currently on leave, you should contact your facility as soon as possible to be placed back on the schedule. Your facility manager will time your return with the implementation/arrival of any approved accommodation. If you are not on leave, please report to work for your next scheduled shift.**

If you believe that the approval still does not fulfill your accommodation need, please let your Facility Manager or ASC know. If your concerns cannot be immediately resolved, you will be given the opportunity to submit a Request for Reconsideration to initiate a more formal reexamination of your request.

Thank you for giving us the opportunity to assist you.

Sincerely,

S [REDACTED] R [REDACTED]  
Accommodation Service Center  
Phone [REDACTED]  
Fax: [REDACTED]