

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No. 0:18-cv-02758-SRN-HB
	)	
v.	)	<b>CONSENT DECREE</b>
	)	
BATH AND BODY WORKS, LLC,	)	
	)	
Defendant.	)	
_____	)	

The United States Equal Employment Opportunity Commission (“EEOC” or “Commission”) initiated this action in the United States District Court for the District of Minnesota, alleging that, under Title I of the ADA, Bath and Body Works, LLC (“BBW” or “Defendant”), had discriminated against Jennifer Tvinneriem (“Tvinneriem”) by failing to accommodate her disability leading to a constructive discharge in violation of the ADA.

BBW denied the EEOC allegations asserting that it did not discriminate against Tvinneriem and that it made good faith efforts to provide a reasonable accommodation for her disability.

In reaching this Consent Decree, the EEOC and BBW, acting by and through their counsel, engaged in arms’ length negotiations. The parties obtained sufficient information to assess reliably the relative merits of the claims and defenses. Throughout

this process, the EEOC and BBW were represented by counsel knowledgeable in this area of the law.

Therefore, it is **ORDERED, ADJUDGED, AND DECREED** that:

I. JURISDICTION

This Court has jurisdiction over the parties and the subject matter of this action.

II. FINDINGS

The purposes of the ADA and the public interest will be furthered by the entry of this Consent Decree.

III. SCOPE

- a. The negotiation, execution, and entry of this Consent Decree will resolve all claims of ADA violations brought by the Commission against Defendant alleged in the instant civil action. This Consent Decree relates only to the violations alleged in EEOC Charge Number 444-2015-00677 and the instant civil action.
- b. For purposes of this Consent Decree, “District 3038” is defined as that district of Defendant at the time of entry of this Consent Decree and any successor district if Defendant is reorganized.

IV. TERM

- a. The Term of this Consent Decree and all obligations hereunder will be thirty (30) months from the Effective Date hereof. The Effective Date hereof will be the date that the District Court approves this Consent Decree.

If, at the end of the thirty (30) month period, any disputes regarding Defendant's compliance with this Decree remain unresolved, the term of this Decree shall be extended automatically (and the Court will retain jurisdiction of this matter to enforce the Decree) until all such disputes have been resolved.

- b. If Defendant fails to perform its obligations during the Term of this Consent Decree, the EEOC is empowered to enforce this Consent Decree through applicable judicial enforcement procedures and to seek any appropriate ruling which may be due because of the need to enforce this Consent Decree.
- c. Should any provision of this Consent Decree be determined by a Court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected, and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Consent Decree.
- d. This Consent Decree sets forth the entire agreement between the Commission and Defendant as to the resolution of the captioned lawsuit.

V. INJUNCTION

During the term of this Consent Decree, within its "District 3038," BBW and its successors and assigns are hereby enjoined from:

- a. Failing to promptly provide reasonable accommodations to disabled employees and failing to timely investigate and communicate with disabled employees requesting accommodations; and,

- b. Retaliating against any employee who participated or participates in an EEOC investigation or this litigation, or who asserted or asserts any rights under or benefitted from this Decree or who opposes discrimination under the Americans with Disabilities Act.

VI. POLICIES AND POSTINGS

Within ninety (90) days of the entry of the Consent Decree, Defendant shall:

- a. Review all relevant policies to assure that the policies are consistent with the injunctive relief in this Decree; and,
- b. Post, and keep posted during the term of this Decree, in conspicuous places in all stores in its District 3038 the posting attached as Exhibit A.

Defendant shall ensure that the posted Notice remains unobscured and, during the term of this Decree, will replace any damaged or defaced Notice.

VII. TRAINING AND OVERSIGHT

- a. Within ninety (90) days of the entry of this Consent Decree, Defendant agrees to conduct training on the provisions of this Consent Decree with, at minimum, the following:
  - i. Human Resources department personnel responsible for District 3038; and,
  - ii. All store management personnel in BBW's District 3038 responsible for responding to an employee's request for an accommodation.
- b. The training shall:

- i. Include an explanation of the provisions of this Consent Decree, and the requirements of the ADA and their regulations as they pertain to the rights of disabled persons who request a reasonable accommodation:
  - ii. Be conducted by an outside trainer with experience in employment discrimination law, and rights and responsibilities under the ADA;
  - iii. Be conducted in person; and,
  - iv. Not commence unless Seven (7) days before the training, Defendant will provide the EEOC with the identity of the trainer, and a copy of the agenda and materials.
- c. During the term of this Consent Decree, all new store management personnel in BBW's District 3038 responsible for responding to an employee's request for an accommodation, including transfers from other Districts and parts of Defendant's businesses, shall be required to review the training materials described in Section VII (b) above. Defendant shall provide proof that each new management hire and management transferee has reviewed the training materials as part of its reporting as required in Section VIII (a) below.

#### VIII. REPORTING REQUIREMENTS.

- a. Defendant will retain, throughout the term of this Consent Decree all documents and information described in and required by this Consent Decree. Defendant will maintain said documents and information in a

format that can be produced or made available to the EEOC for inspection upon 30 days' notice during the term of the Consent Decree. The records maintained by Defendant shall include:

- i. Identification of all requests for a reasonable accommodation, including the name, location and job position of the employee making the request;
  - ii. Identification of who investigated the request on behalf of Defendant including when the employee first was contacted in person; and,
  - iii. What resulted from the investigation and communication, specifically, whether an accommodation was provided and the nature of the accommodation, or, if not, a reason for the denial of the accommodation.
- b. Defendant shall provide the Commission with five (5) written reports, the first on the date falling six (6) months after the entry of this Consent Decree by the Court, and the second report due six (6) months thereafter, and continuing. The final report, however, shall be due at the beginning of the 29<sup>th</sup> month of the term of the Consent Decree.
- c. The reports will be sent via email to [eeoc-mnao-decree-monitoring@eoc.gov](mailto:eeoc-mnao-decree-monitoring@eoc.gov).
- d. These reports will set forth the following:
- i. Identification of all requests for a reasonable accommodation, including the name, location and job position of the employee

making the request; identification of who investigated the request and when the employee first was contacted in person; and, what resulted from the investigation and communication, specifically, whether an accommodation was provided and the nature of the accommodation, or, if not, a reason for the denial of the accommodation.

- ii. A certification that the required trainings have been completed, accompanied by a list of all individuals who attended the training discussed in Section VII(a).
  - iii. A certification that all policies have been reviewed and modified where necessary.
  - iv. A certification that the Notice referred to in Section VI(b) of this Decree has remained posted during the reporting period.
- e. If EEOC requests, Defendant shall make documents or records relating to the reports available to EEOC within thirty (30) calendar days of EEOC's request to the Human Resources Partner for District 3038, currently Keisha Gainey. In addition, Defendant shall require personnel within its employ or under its authority or control, and whom EEOC requests to verify compliance with this Decree, to cooperate with EEOC, and to be interviewed upon EEOC's request, and shall permit an EEOC representative to enter its premises for such purposes. Any EEOC onsite inspection and/or interviews shall be at a mutually agreeable place, time

and date, and if supervisory or management employees are interviewed, counsel for Defendant may be present.

IX. INDIVIDUAL REMEDY

SETTLEMENT PAYMENT

- a. Within fifteen (15) business days of the entry of this Consent Decree signed by counsel for the EEOC and receipt of the executed Release in the form of Exhibit B hereto, Defendant shall pay to Jennifer Tvinneriem the sum of \$38,000 (Thirty-Eight Thousand Dollars) (“Settlement Payment”).

Payment will be evidenced by issuance of an IRS form 1099. The Settlement Payment shall be sent to Jennifer Tvinneriem at her current address.

- b. Upon delivering the Settlement Payment as set forth above, Defendant shall, on the same date, deliver to counsel for the EEOC, at the email address below, a copy of the check remitted to Jennifer Tvinneriem, and tracking information for delivery.
- c. Each party, including Tvinneriem, shall be responsible for their own tax liability arising out of the terms of this settlement/consent decree.

X. SUCCESSORS

In the event a breach of this Consent Decree is alleged by the EEOC to have occurred, the EEOC shall provide notice of the same to BBW which shall have thirty (30) days to respond to the same from the date of receipt by U.S. Mail.

The term of this Consent Decree shall be extended if necessary to resolve a

dispute under this Section. Nothing herein will bar the EEOC from seeking emergency relief from the Court.

**XI. COSTS AND ATTORNEYS FEES**

Each party will bear that party's own costs and attorney's fees.

**XII. COURT APPROVAL**

Both parties request that this Court approve this Consent Decree, without costs to either party, and with the Court reserving jurisdiction only as necessary to enforce this Consent Decree.

**XIII. ENFORCEMENT**

In the event a breach of this Consent Decree is alleged by the EEOC to have occurred, the EEOC shall provide notice of the same to BBW which shall have thirty (30) days to respond to the same from the date of receipt by U.S. Mail.

The Court will retain jurisdiction for thirty (30) months to permit any party to move to reopen the action, for good cause shown, or to seek enforcement of the terms of this Consent Decree.

**IT IS SO ORDERED.**

**THUS, DONE AND SIGNED,** on this 27<sup>th</sup> day of March, 2019.

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
UNITED STATES DISTRICT JUDGE

**APPROVED AS TO FORM AND CONTENT:**

DATED: March 26, 2019

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Gregory Gochanour  
Regional Attorney

BY: s/Jean P. Kamp  
Jean P. Kamp  
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ATTORNEYS FOR PLAINTIFF

DATED: March 26, 2019

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ATTORNEYS FOR DEFENDANT

**EXHIBIT A**

**NOTICE TO EMPLOYEES**

This Notice is posted pursuant to a Consent Decree resolving a lawsuit with the United States Equal Employment Opportunity Commission (“EEOC”). In the State of Minnesota, the EEOC sued Bath & Body Works LLC (“BBW”), alleging that it violated the Americans with Disabilities Act (ADA) in 2015, by failing to provide reasonable accommodations for a disabled employee with vision issues who asked for a larger monitor on her cash register. BBW denies the allegations but has agreed to enter into a Consent Decree.

The Consent Decree resolving this lawsuit provides monetary relief to the former employee. It requires BBW to review its policies to ensure that they require a timely response to a disabled employee’s request for an accommodation, including an investigation and communication. The Decree also requires training of Human Resources department personnel responsible for District 3038 and all store management personnel in BBW’s District 3038 responsible for responding to an employee’s request for an accommodation on the ADA, responding to a request for an accommodation by a disabled employee and the terms of the Decree.

If you have a question about the Consent Decree, you should contact the Minneapolis office of the EEOC at (612) 335-4040. You can find out more about the EEOC and the laws that it enforces by going to <http://www.eeoc.gov>.

Bath and Body Works, LLC

BY: \_\_\_\_\_  
\_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No. 0:18-cv-02758-SRN-HB
	)	
v.	)	<b>JENNIFER TVINNERIEM RELEASE</b>
	)	
BATH AND BODY WORKS, LLC,	)	
	)	
Defendant.	)	
_____	)	

In consideration for \$38,000 (Thirty-Eight Thousand Dollars) paid to me by Bath and Body Works, LLC, in connection with the resolution of EEOC v. Bath and Body Works, LLC, I waive my right to recover for any claims of discrimination under the Americans with Disabilities Act of 1990, as amended, that I had against Bath and Body Works, LLC, prior to the date of this release and that were included in the claims alleged in EEOC's complaint in EEOC v Bath and Body Works, LLC, file number: 0:18-cv-02758-SRN-HB

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Jennifer Tvinneriem