



Women's Class-Action Lawsuit Against Wal-Mart, Inc. Given Go-ahead

Suit is largest private civil rights lawsuit in U.S. history

By David Kravets
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A federal judge on Tuesday approved class-action status for a sex-discrimination lawsuit against Wal-Mart Stores Inc. that has become the largest private civil rights case in U.S. history. It could represent as many as 1.6 million current and former female employees of the retailing giant.

The suit alleges Wal-Mart created a system that frequently pays its female workers less than their male counterparts for comparable jobs and bypasses women for key promotions.

Wal-Mart, the nation's largest private employer, sought to limit the scope of the lawsuit that was filed three years ago.

Wal-Mart spokeswoman Mona Williams told The Associated Press earlier Tuesday that the Bentonville, Ark.-based company will appeal the ruling and is confident that it does not discriminate against women employees. No trial date was set.

U.S. District Judge Martin Jenkins took nine months to decide whether to expand the lawsuit to include virtually all women who work or have worked at Wal-Mart's 3,500 stores nationwide since 1998. His ruling makes the lawsuit the nation's largest class action.

The ruling is pivotal because it gives lawyers for the women tremendous leverage as they pursue punitive damages, back pay and other compensation.

"I think it's a terrific victory for the women who work at Wal-Mart who have labored for years under working conditions where they have been told repeatedly they have been unsuitable for management and not suitable to make as much as men," said Joseph Sellers, one of the attorneys representing the women.

Betty Dukes, one of the women spearheading the suit, said she was paid just \$8.44 per hour during her first nine years working at a variety of positions at Wal-Mart's store in Pittsburg, Calif., while several men holding similar jobs but less seniority earned \$9 per hour.

But Wal-Mart's Williams said the ruling has nothing to do with the merits of the case.

"Judge Jenkins is simply saying he thinks it meets the legal requirements necessary to move forward as a class action," Williams said.

In a hearing last September, company attorneys urged Jenkins to allow so-called mini-class action lawsuits targeting each outlet. Wal-Mart contends its stores operate with so much autonomy that they are like independent businesses with different management styles that affect the way women are paid and promoted.

Plaintiffs' lawyer Brad Seligman responded that Wal-Mart stores are "virtually identical in structure and job duties" and that the case would only take a few months to litigate. "There is a high emphasis on a common culture, which is the glue that holds the company together," he said.

[Editor's note: Any reporter on the Wal-Mart beat knows this statement is false. The lazy "he said, she said" writing has no place when matters of fact are concerned.]

Jenkins ruled that a 1964 congressional act passed during the civil rights movement prohibits sex discrimination and that giant corporations are not immune.

In addition, the judge said, the plaintiffs presented sufficient anecdotal evidence to warrant a class-action trial.

Jenkins decided that the "plaintiffs present largely uncontested descriptive statistics which show that women working at Wal-Mart stores are paid less than men in every region, that pay disparities exist in most job categories, that the salary gap widens over time, that women take longer to enter management positions, and that the higher one looks in the organization the lower the percentage of women."

Wal-Mart contends the suit ignores the thousands of women who earn more than their male counterparts and doesn't consider factors that may make one job worth more pay than another.

The case already has generated 1.25 million pages of evidence and 200 sworn depositions.

The trial is expected to start with the women trying to demonstrate that Wal-Mart has a pattern of paying women lower wages and passing them over for promotions. Wal-Mart would then get a chance to dismantle that theory.

If a judge or jury found Wal-Mart did have a pattern of discrimination, a second phase of the trial would let the plaintiffs seek damages.

The Wal-Mart spokeswoman said the company is evaluating its employment practices.

"Earlier this month Wal-Mart announced a new job classification and pay structure for hourly associates," Williams said. "This new pay plan was developed with the assistance of third-party consultants and is designed to ensure internal equity and external competitiveness."

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