

FOR IMMEDIATE RELEASE

Monday, April 26, 2010

Contact: Art Silverman
art@turnerstrategies.com
202-365-5554

Largest Discrimination Lawsuit in U.S. History Gets Green Light *After years of delay, female Wal-Mart workers may get their day in court*

(WASHINGTON, D.C., April 26, 2010) After nearly a decade of pre-trial wrangling, the U.S. Court of Appeals for the Ninth Circuit ruled today in a 100-page decision that hundreds of thousands of female Wal-Mart current and former employees who have worked at Wal-Mart stores at any time since June 2001 are entitled to proceed with a massive class action lawsuit charging sex discrimination by America's largest retailer.

Their case (*Dukes v. Wal-Mart Stores, Inc.*) alleges systematic discrimination against women in compensation and promotions at Wal-Mart and its subsidiary, Sam's Club, throughout the United States. It is the largest civil rights class action in history.

Betty Dukes, a Wal-Mart greeter in Pittsburg, Calif., first filed suit along with five of her co-workers in 2001. Wal-Mart attorneys have been fighting ever since to keep the case from ever going to trial. But the women have prevailed on the question of whether the case can go to trial on behalf of the class. Today's decision – the third from the Ninth Circuit -- is from an expanded panel of 11 Court of Appeals judges.

In announcing the decision today, a majority of the judges, who heard the case, found that it was a proper class action for female employees who have worked at Wal-Mart since the suit was filed in June 8, 2001. The class can seek lost pay and injunctive relief. It sent the case back to the lower court to determine whether women who were employed prior to that date may be part of the class and whether the class can seek punitive damages.

The opinion rejected Wal-Mart's argument that the case was too large to be a class. Judge Susan Graber, joining the majority, explained the ruling was "unremarkable..." The majority held that "[a]lthough the size of this class action is large, mere size does not render a case unmanageable."

"It has taken a very long time, and a tremendous amount of work, but it looks like we're finally going to get our day in court," says lead plaintiff Betty Dukes. "That's all we've ever asked for."

The women's case has been bolstered by Wal-Mart's own records. Although more than two-thirds of Wal-Mart's hourly employees are female, the records showed that women represented fewer than one-third of lower-level managers, and only 15 percent of store manager positions.

Women were paid less than men of equal seniority in every major job category, even though women on average had higher performance ratings and lower turnover rates than men.

“Wal-Mart tries to project an improved image as a good corporate citizen,” says Brad Seligman, lead counsel for the plaintiffs and executive director of the Impact Fund, a nonprofit Berkeley, California foundation. “But no amount of PR is going to work until it addresses the claims of its female employees.”

Co-lead counsel Joseph Sellers, who heads the civil rights practice at Cohen Milstein, in Washington, D.C., agrees: “I hope this decision paves the way for Wal-Mart to put behind this sad chapter of its history and become as much a leader in the fair treatment of its workers as it has been a leader in financial results.”

Seligman and Sellers say they hope to be in court for the actual trial within a year.

Aside from the Impact Fund and Cohen Milstein, the plaintiffs also are represented by Equal Rights Advocates (ERA), San Francisco; the Public Justice Center in Baltimore; Davis Cowell & Bowe, San Francisco; and Stephen Tinkler and Merit Bennett, Santa Fe, N.M. Plaintiffs’ counsel includes some of the most experienced class action and sex discrimination attorneys in the country.

#