

**Betty DUKES; Patricia Surgeson; Cleo Page; Deborah Gunter; Karen Williamson;
Christine Kwapnoski; Edith Arana, Plaintiffs-Appellees,**

v.

WAL-MART, INC., Defendant-Appellant.

**Betty Dukes; Patricia Surgeson; Cleo Page; Deborah Gunter; Karen Williamson; Christine
Kwapnoski; Edith Arana, Plaintiffs-Appellants,
Wal-Mart, Inc., Defendant-Appellee.**

Nos. 04-16688, 04-16720.

United States Court of Appeals, Ninth Circuit.

February 13, 2009.

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Mark E. Barton, Esquire, Hersh & Hersh LLP, San Francisco, CA, Joe R. Whatley, Esquire, Whatley Drake & Kallas LLC, New York, NY, for Amicus.

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

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