

Wal-Mart Wins Supreme Court Sex-Bias Case Ruling

By BRENT KENDALL

WASHINGTON—The Supreme Court ruled Monday that a sweeping gender-discrimination lawsuit against Wal-Mart Stores Inc. can't proceed as one large class action, a significant victory for the discount retailer and other corporations.

The court, in an opinion by Justice Antonin Scalia, said the plaintiffs didn't have enough in common to pool all their claims into a single case. The plaintiffs wanted to sue on behalf of more than a million women who are current or former employees of Wal-Mart.

To proceed, Justice Scalia said, the plaintiffs would need significant proof that Wal-Mart operated under a general policy of discrimination. "That is entirely absent here," he wrote in a 27-page opinion.

Justice Scalia also said the plaintiffs' claims for back pay couldn't proceed in a class-action lawsuit. Wal-Mart, he said, was entitled to individual determinations of each employee's eligibility for back pay.

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The court's four other conservative justices joined all of Justice Scalia's opinion. The court's four liberal members agreed with part of the ruling and dissented from other parts.

Justice Ruth Bader Ginsburg, writing for the partial dissenters, would have left open the possibility that the plaintiffs could have proceeded under a different legal rule on class actions.

Wal-Mart and its corporate supporters warned that allowing the suit to proceed as a class action would open the floodgates for similar suits and force big firms to settle even meritless claims because the potential legal liability was too great.

Six women filed the suit on behalf of current and former Wal-Mart employees, alleging the company paid female workers significantly less than their male counterparts and offered them fewer opportunities for advancement.

The plaintiff class potentially included women who worked in 170 kinds of jobs across 3,400 stores. The case dates back to 2001 and involved claims that could have amounted to billions of dollars.

The plaintiffs were seeking back pay, punitive damages and changes to how Wal-Mart makes its pay and promotion decisions. They conceded their class action was a large one, but said that was to be expected because Wal-Mart is the nation's largest corporate employer.

The plaintiffs alleged that Wal-Mart's corporate culture and employment policies fostered gender stereotyping and led to adverse treatment of women in all of the retailer's 41 domestic regions. They charged that Wal-Mart lagged far behind its competitors in its promotion of women and knew of discrimination against its female employees but failed to act.

Wal-Mart said it is an excellent place for women to work, with policies that prohibit discrimination.

Monday's ruling reversed a San Francisco-based federal appeals court, which had allowed the class-action suit to proceed.

The case is *Wal-Mart v. Dukes*, 10-277.

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