

Wal-Mart case has historic implications

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WASHINGTON – A coalition of consumer, civil and women’s rights groups issued a report today backing a class-action sex-discrimination lawsuit against Wal-Mart Stores Inc.

The Alliance for Justice report argues that a company-wide pattern of sex discrimination makes Wal-Mart v. Dukes a “textbook class action case.”

“If our nation’s largest private employer can avoid liability for systemic discrimination across its nationwide chain of stores it will undermine equal rights of all women workers,” said Brian Siebel, the principal author of the report.

The U.S. Supreme Court will hear oral arguments next week to determine if the plaintiffs can proceed with the class-action lawsuit.

Bentonville-based Wal-Mart has asked the court to reverse a Ninth Circuit Court decision certifying the class-action lawsuit that could potentially represent millions of former and current female employees.

Rachel Brass, one of the attorneys representing Wal-Mart, said the concerns are “quite overstated” and that “many routes” will still be available for employees claiming sex discrimination.

The Supreme Court, she said, has the opportunity to reverse a Ninth Circuit decision that she characterized as inconsistent with the rules and prior Supreme Court decisions governing class action lawsuits.

“The case will set clear, understandable ground rules,” said Brass, a partner at Gibson, Dunn & Crutcher.

The Alliance for Justice held a conference call with reporters today to unveil its report.

Fatima Goss Graves of the National Women’s Law Center said statistical evidence shows women earned lower pay and were promoted less frequently than men across Wal-Mart’s 41 regions.

“The chances for this treatment being random is one in billions,” Graves said.

Wal-Mart argues that aggregated data used by the plaintiffs is misleading. Their statistician found no statistically significant pay rate differences between men and women in 90 percent of Wal-Mart stores.

The Alliance for Justice argued that Wal-Mart wants to break the class-action lawsuit into smaller pieces knowing that it is nearly impossible for an individual to win a sex-discrimination lawsuit.

“If you don’t have class action, the vast number of women discriminated against are going to go away and get nothing,” said **F. Paul Bland Jr., senior attorney at Public Justice.**

Wal-Mart argues that the handful of plaintiffs do not represent the millions of women employed at the company.

“The kaleidoscope of claims, defenses, issues, locales, events and individuals makes it impossible for the named plaintiffs to be adequate representatives of the absent class members,” Wal-Mart says in its brief filed with the Supreme Court.

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