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Too big to sue?

That's what the nation's largest private employer -- Wal-Mart -- is contending before the U.S. Supreme Court. In *Wal-Mart v. Dukes*, a nationwide class of female employees allege that their employer discriminated against them in pay and promotions. The women say they have a mountain of evidence showing that personnel decisions in Wal-Mart stores are made "within a corporate culture that is rife with gender stereotypes demeaning to female[s]." But Wal-Mart claims that it has too many stores, too many departments, too many job categories, and too many managers for the plaintiffs to sue the retail giant as a single class.

This case started almost a decade ago when Betty Dukes, a 61-year-old Wal-Mart store "greeter," filed the sex discrimination lawsuit along with six of her co-workers. They sought to represent over a million female retail store employees -- the largest employment class action in U.S. history -- arguing that the discriminatory effects of Wal-Mart's company-wide policies can and should be challenged in a single class action.



Betty Dukes stands in front of a Wal-Mart in Pittsburg, Calif. Photo by Ben Margot/Associated Press

After a lengthy hearing, the district court agreed and certified the class. On appeal, [the U.S. Court of Appeals for the Ninth Circuit, sitting en banc, affirmed](#) and allowed most of the case to go forward. At Wal-Mart's request, the U.S. Supreme Court agreed to review the decision. The case will be heard on March 29.

Corporate interests filed 15 *amici* briefs in support of Wal-Mart, many of them decrying class actions as bad for business and claiming that they force corporations into settling meritless claims.

Public Justice filed an *amici* brief in support of the plaintiffs, joined by the National Association of Consumer Advocates and the National Consumer League. Our brief argues that class actions often provide the only effective way to compensate wronged individuals and to sanction corporate misconduct. In the case before the Court, even if Wal-Mart is discriminating against women, few of

its workers, if any, will have the means or ability to seek justice if they cannot proceed together as a class.

To read our *amici* brief in *Wal-Mart v. Dukes*, [click here](#).

Thirteen other *amicus* briefs were filed in support of the plaintiffs by law professors, public interest organizations, professional associations, and labor unions.

Special thanks to Monique Olivier of Duckworth Peters Lebowitz Olivier LLP in San Francisco, CA, for taking the lead in authoring our brief, with assistance from James Sturdevant of [The Sturdevant Law Firm](#) in San Francisco; Tracy Rezvani and Karen Marcus of [Finkelstein Thompson LLP](#) in Washington, D.C.; [Public Justice Senior Attorney Victoria Ni](#) and [Senior Attorney Paul Bland](#); and me. Thank you, also, to Finkelstein Thompson LLP and [Cuneo Gilbert & LaDuca, LLP](#) of Washington, D.C. for their generous monetary contributions toward the printing costs of the brief.

And thank you for your support in helping us to preserve access to justice for all.

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